

Official Gazette



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OFFICIAL WEEK IN REVIEW

May 7.—PRESIDENT Garcia today received the decoration entitled "Order of Ruben Dario" (rank of the Great Cross) with Gold Plaque from Major General Anastacio Somoza Debayle in the name of President Somoza of Nicaragua. The decoration is the highest award by the Government of Nicaragua.

The decoration will be placed for deposit in the archives of the Philippine Government pending the sanction of the Congress of the Philippines, in accordance with the provision of the Constitution.

Present at the ceremony held in the Quezon City residence of the President were Maj. Gen. Manuel Cabal, chief of staff of the Armed Forces of the Philippines; Brig. Gen. Pedro Q. Molina, chief of the Philippine Air Force; Minister Manuel Zamora, Malacañang protocol officer; Minister Pedro Angara-Aragon, chief of protocol of the Department of Foreign Affairs; Minister Enrique Garcia; and Eduardo Da Silva, Nicaraguan consul in Manila.

Gen. Somoza, a 1946 graduate of the West Point Academy of the United States, was accompanied by Nicaraguan Minister to China Humberto Arguillo, Nicaraguan Chief of National Security Lt. Col. Gustavo Montiel, and the general manager of the National Bank of Nicaragua, Alfredo Cole.

In between lunch and Gen. Somoza's arrival, the President went over a pile of bills submitted to him for certification as urgent.

May 8.—PRESIDENT Garcia today directed Bernardo Torres, General Manager of the People's Homesite and Housing Corporation, to expedite the distribution of lots to actual occupants in the Sapang Palay Estate in San Jose del Monte, Bulacan.

The President's directive was issued following his conference with a group of Sapang Palay tenants who were accompanied to his Quezon City residence by Rep. Rogaciano Mercado.

In the conference the President reiterated the policy of the Administration to sell PHHC lands to tenants not "because the government is in need of money but to generate funds in order to buy more lands for distribution to the landless."

The tenants who conferred with the President were led by Dominador Guevan, president of the Sapang Palay Tenants' League, San Jose del Monte, Mayor Eusebio Aguirre, and Vice-Mayor Constancio Nolasco.

In the same meeting, Rep. Mercado presented to the President a seven-point petition of the tenants which sought to acquire a definite policy stand from the Administration regarding the expropriation of their lot.

The tenants petitioned that the area they now occupy be allocated to them at the earliest and as promised by Gov. Torres of the PHHC.

They also asked for an individual 1000 square meter allocation instead of the original 500 square meters promised them for residential lot, and that the agricultural lands given them be priced at no more than the nominal cost of P0.30 per square meter.

This morning the President certified as urgent a bill introduced by Rep. Inocencio Ferrer of Negros Occidental which would grant to the families of the deceased AFP personnel who died in the plane crash in Guam last September 19, 1960, a gratuity equivalent to two years salary irrespective of their gratuities that may be granted under other laws.

The President's action came as a result of the representations made by Mrs. Maria Visaya and Mrs. Salud Gilbuena, who acted in behalf of ten widows and dependents of the AFP officers and enlisted men who figured in the plane crash.

The President also received ranking officials of the Philippine Professionals League for Garcia Reelection Movement, led by their chairman Dr. Eufemia L. del Rosario, who pledged support to the Chief Executive in his reelection bid.

Members of the Nacionalista Party provincial committee of Capiz also saw the President and discussed with him local problems facing their party. The NP committee men were Mayors Jose Viterbo of President Roxas, Prudencio Alovera of Ma-ayan, Inigo Abelita of Pilar; Vice-Mayors Rubinstein Capulso of Pontevedra and Felipe Ignacio of Roxas City; and Julian Alba, Hugo Delfin, Julio Orello, Alfonso Badionio, Pedro Balaclac, Martin Advincula, and Arturo Delfin.

Other morning callers of the President were Col. Gregorio Cervantes and members of the Allied Veterans and Workers League of the Philippines, Prof. Felipe Padilla de Leon, Maximo Aguilar, and retired Generals Alfonso Arellano and Dionisio Ojeda.

President Garcia today lauded the Filipino boy scouts and overseas scouters for "their commendable contribution to the ideals of scouting—friendship, goodwill, and the development of responsible citizenship."

In a message to the closing ceremonies of the Second National Boy Scouts Jamboree in Pasonanca Park, Zamboanga City, the President said that the Boy Scout movement has helped considerably in the mental, physical, social, and moral growth of many a youth.

The President's message was relayed and broadcast at 8 p.m. this day during the closing program of the boy scouts jamboree.

The President pointed out in his message that scouting has accomplished much in the development of a responsible, dependable, and wholesome citizenry. He also said that periodic gatherings such as the national jamboree have fostered national consciousness and strengthened national unity.

This afternoon the President directed the filing of formal criminal and/or administrative charges against seven physicians allegedly linked in the drug "kickback" racket.

The Chief Executive issued the directive to the Presidential Committee on Administration Performance Efficiency (PCAPE) this afternoon following receipt of the progress report submitted by the PCAPE special investigating team looking into the drug racket.

The progress report submitted to the President by Justice Buenaventura Ocampo and Maximo Maceren, PCAPE chairman and vice-chairman respectively, so far covers only four provinces in southern Luzon.

The President issued the directive upon the recommendation of the four-man PCAPE team, composed of Hermann Nubla, F. B. Concepcion, Pedro Yadao, and Charlie Palomar, which conducted a ten-day fact finding investigation of physicians implicated in the four provinces. The suspects were asked to give their side and comment on the charges levelled against them. Witnesses were also interviewed.

In the evening the President received key personnel of the Central Bank who requested him to certify to the Senate a bill placing all government financing institutions outside the WAPCO.

This bill which was authored by Rep. Tobias Fornier of Antique was already passed by the House and is pending in the Senate.

Those who called on the President were Ruben Ledesma, director of personnel; Domingo Enerio, assistant personnel director; Felix Lazo, director of fiscal agency; Ernesto Romero, economist; Manuel Bienvenida and Julio Leuterio, technical assistants; Cicero Angeles, Romeo Abad, Artemio Dava, chiefs of division; and Pedro Castro and Raul Labrador.

May 9.—**T**HIS morning President Garcia announced that it is his administration's policy to favor the eventual ownership of the acquisition by the nation's sugar planters of controlling interests in sugar centrals which are being sold by their present owners.

The President made the announcement during the call at Malacañang this morning of representatives of more than 500 sugarcane planters and central laborers in Negros Oriental in connection with the impending disposition of controlling stocks in the Central Azucarera de Bais in that province.

These stocks, constituting 62 per cent of the central's total interests, are owned by the Tabacalera which had previously committed in writing to sell the shares to the sugarcane planters.

The farmers saw the President to oppose the sale of the stocks to outside parties. They invited attention to a previous written commitment made to them by Tabacalera.

The President said it was, as a matter of fact, his policy to provide as much assistance as possible to enable sugarcane planters to own eventually the centrals or acquire substantial interests in the mills, if these are being sold by their present owners.

He emphasized that the ownership of sugar centrals by the farmers would tend to improve the working conditions of laborers and employees in the sugar industry and bring about the stabilization of sugar prices for the benefit of the country's consumers.

"I have faith in the ability of the country's sugarcane planters to develop the industry effectively not only for themselves but also for that of the whole country," the President said.

Those who saw him were Mateo Teves, president of the Bais Farmers Association; and Ignacio Montenegro, BFA vice-president; Patricio Villegas, BFA director; and Lenin Victoriano, representing the laborers of the Central Azucarera de Bais. They were accompanied by Rep. Lorenzo G. Teves of Negros Oriental.

President Garcia today was assured by Gov. Valeriano Gatuslao and Rep. Vicente Gustilo of Negros Occidental that the Liberals cannot win in their province.

The two Negros politicians laughed off the contention of former Sen. Ramon Torres that the LP's will win in the province, saying that their provincemates still are afraid of the Liberals.

The President was informed by Gatuslao and Gustilo that the people of Negros Occidental still remember the reign of terror instituted in the province during the LP regime and for this reason the electorate is still solidly supporting the Nacionalistas.

Other callers were Sens. Eulogio Balao and Domocao Alonto; Abraham Rasul, NP congressional aspirant; Tereso Dumon, official NP congressional candidate for the seventh district of Cebu; and Reps. Salipada Pendatun of Cotabato, Jose Leido of Mindoro Oriental accompanied by his son Jose, Manuel Zosa of Cebu, Joaquin Rocas of Manila, Maximino Noel of Cebu, Delfin Albano of Isabela, Wenceslao Lagumbay of Laguna, and Numeriano Babao of Batangas.

The Congressmen asked for presidential certification of their pet local bills and complete assistance for their respective districts.

Earlier this morning, the President conferred with Executive Secretary Natalio P. Castillo, who brought to him some important pending papers.

He received callers at his study room from 9 a.m. to 1 p.m.

The President also received today information that all the officials of Upi, Cotabato, defected en masse from the Liberal Party and joined the Garcia-reelection movement.

Mayor Abdullah Sinsuat of Upi of Cotabato, together with all the town and barrio councilors and lieutenants, were sworn into the Nacionalista fold by Sergio Toccao, Malacañang technical assistant, in a colorful ceremony in that town last Saturday.

President Garcia was assured of at least 8,000 votes which were originally meant for Vice-President Macapagal.

In indorsing the reelection of President Garcia, Mayor Sinsuat said that their support of Mr. Garcia was in reciprocation and recognition of the President's efforts to build up Mindanao agriculturally and economically. The building of roads and the electrification of northern Mindanao provinces were specifically mentioned.

May 10.—**P**RESIDENT Garcia today directed Budget Commissioner Faustino Sy-Changco to release the initial amount of P50,000 from his contingent funds for the immediate relief of fire victims in Cabanatuan City.

The directive was made through Executive Secretary Natalio P. Castillo at Malacañang this morning.

The President likewise directed SWA Administrator Amparo Villamor to make a survey of the damage caused by the fire and to extend all possible aid to the fire victims.

The fire which raged for more than four hours yesterday morning gutted business establishments and residential houses in Cabanatuan, redereing some 1,000 persons homeless and causing damage to property estimated at P2 million.

The President this morning also directed the Department of Health to send immediately medical supplies and doctors, if necessary, to Bontoc, Mountain Province, to meet the needs of some 700 patients reportedly stricken ill with gastro-enteritis.

The Chief Executive issued the directive upon reading in the newspapers that the health authorities in that area are short of medicine because of the sudden upsurge of gastric cases which reportedly had caused the death of four and reached epidemic proportions.

The President directed the Presidential Committee on Administration Performance Efficiency through Colonel Jorge Delarmente, Presidential senior military aide, to coordinate the relief work with the Department of Health and the Social Welfare Administration authorities.

President Garcia received the "*Collar de la Orden del Libertador General San Martin*" from the President of the Republic of Argentina.

The award which is the highest decoration given by the Argentine government, and which is conferred only on chiefs of states, was given to the President in recognition of his statesmanship and his efforts to promote "pan-Asian solidarity."

In placing the decoration on the President, Argentine Ambassador Raul Rodriguez Araya assured the President that the award symbolizes the national aspiration for independence and freedom of his people and attests to the high esteem the Argentine Government and people have for the Philippine Chief Executive.

In acknowledging the award, the President said the decoration will be in safekeeping pending the disposition of Congress as provided under the Philippine Constitution.

The Philippine Chief Executive, however, requested Ambassador Araya to convey his sincerest gratitude to President Arturo Frondizi and the Argentine people for the award.

The decoration consists of a huge medallion embossed with fine stones and the bust of General San Martin, on the reverse side of which is the Argentinian coat of arms. The medallion is attached to the necklace by a figure of the Condor, a bird of the Andes, and curved sword symbolizing the sword of General San Martin.

The golden necklace consists of symbols of the sun intertwined with laurel wreaths.

Present at the ceremony, which was held at the Malacañang ceremonial hall, were Executive Secretary Natalio P. Castillo; Foreign Affairs Undersecretary Fructuoso Cabahug; Ministers Manuel G. Zamora, Pedro Angara-Aragon, and Benjamin T. Tirona; Consul Vicente R. Castillo; and

Carlos Lucas Blanco and Eduardo Colombo, attache and third secretary, respectively, of the Argentine embassy.

This afternoon the President underlined the vital role of government auditors in the fight against graft and corruption and the promotion of clean and honest government.

The President, in his brief remarks at the induction of Jesus Iriarte as deputy auditor general, also congratulated the "watchdogs" of the government coffers but at the same time told them to be always on the alert for anomalies.

After inducting Iriarte, the President said he had appointed Iriarte, who enjoys the support of his fellow auditors, because he is a career man who rose from the ranks.

The President, however, expressed regret that owing to doctors' orders, he cannot address the opening convention of government auditors in Baguio on Monday but will send Executive Secretary Natalio P. Castillo to read his message.

Present at the oath-taking ceremony which was held this afternoon at the Malacañang reception hall were Auditor General Pedro M. Gimenez; Mrs. Jesus Iriarte, wife of the deputy auditor general; and some two hundred government auditors headed by Cirilo Miran, manager of Department A; Martin Kintanar, manager of local governments; Agapito Cubacha, chief legal counsel of GAO; Chief Supervising auditors Cresencio Custodio and Amable Aguiluz; Auditors Jose Amoyo of NAWASA, Jose Descallar of ACCFA, Maura Miranda of NAMARCO, Eladio Villanueva of the MRR, and Pedro Encabo of the PHILCOA.

Iriarte, who was manager of the local governments auditing department until his promotion, is a career man who rose from the ranks with a record of thirty years of service in the government.

May 11.—**P**RESIDENT Garcia this morning was the keynote speaker at the inaugural ceremonies of the third labor-management congress sponsored by the labor-management advisory council of the Department of Labor, held at the University of the East auditorium.

The President spoke before some 2,000 delegates representing management and labor groups from all parts of the country.

Fetches by Secretary Angel Castaño of Labor from Malacañang at 8:30 a.m., the President was cheered by the delegates and observers as he entered the jam-packed auditorium.

Before the President read his address, Mrs. Leonila D. Garcia, assisted by Mrs. Angel Castaño, released a covey of doves symbolic of the industrial peace now obtaining in the Philippines.

The labor-management congress was formally opened by Dr. Francisco Dalupan, chairman of the advisory council.

After delivering his address about 10:30 a.m., the President motored back to Malacañang and spent the rest of the morning going over some bills to be certified as urgent to Congress.

The President today received Gen. Sir Richard Hull and Maj. Gen. G. A. Thomas, commander-in-chief and chief of staff, respectively, of the British Land Forces in the Far East.

The President also received Dr. Felix Marti y Bañez, former health undersecretary of Spain and famous writer and publisher, who paid his respects to the President before leaving tomorrow morning for the United States.

Dr. Marti discussed with the President science development in the Philippines, particularly the policies of the National Science Development Board.

Dr. Marti also presented the President with a copy of his book entitled, *A Prelude to Medical History*. He was accompanied by Dr. Frank Co Tui, who is under NEC-ICA contract with the NSDB, and Former Health Undersecretary Tranquilino Elicaño, NSDB technical consultant.

Sir Richard Hull, who is returning on Saturday to England for home assignment, is a member of the SEATO military advisors group. He was in the Philippines in 1958.

He and Gen. Thomas were accompanied to Malacañang by Lt. Gen. Manuel F. Cabal, Col. Vicente Raval, British Charge d'Affairs John W. Lambert, British Services Attache Wing Commander R. D. Walton, and Capt. J. Pilley (ADC).

After receiving Dr. Marti, the President conferred with ACCFA officials on the programs and operations of the corporation.

Those who conferred with the President were Administrator Vicente Araneta, Acting Assistant Administrator Deogracias E. Lerma, and Doroteo Toledo of the ACCFA fiscal department.

This evening the President ordered the liquidation of outstanding Virginia tobacco purchases of the ACCFA of 1959. He gave this order during his conference with ACCFA Administrator Vicente Araneta this evening, during which he also gave the green light for the filing in Congress as an administration measure of H. B. 6166, which seeks to stabilize the Virginia tobacco industry of the country.

During his conference with Administrator Araneta, during which Acting Assistant Administrator Deogracias E. Lerma and Fiscal Head Doroteo Toledo were present, the President also took up plans to set up a cold storage plant in the outskirts of Manila to provide farmers with storage facilities for their marketable goods.

During the conference the President was told by Araneta that beginning tomorrow the ACCFA will release checks to Virginia tobacco FACOMAs without the signature of the auditor in order to speed up payments. The ACCFA will then furnish the PNB branches a list of farmer-payees with the certification that the ACCFA will honor checks released without the auditor's signature.

The President emphasized the need for settlement of these obligations in order to help the farmers who are in financial straits.

H. Bill No. 6166, which was endorsed to the President by the Federation of Virginia Tobacco FACOMAs, provides that the farmer retains ownership of the tobacco which he can export or manufacture into cigars and cigarettes himself.

Araneta also proposed to the President the setting up of a cold storage plant on a 32-hectare lot in the city suburbs to service farmers who have perishable goods; such as, eggs, onions, vegetables, and fruits to sell.

Araneta said this will help the farmers because they could wait for better prices, instead of selling out to aliens who control the market for fear that their goods will spoil.

The President said he will discuss the plan further with the ACCFA officials.

May 12.—**P**RESIDENT Garcia today went over pending bills which needed his certification before they could be acted upon during the last few remaining days of the current regular session of Congress.

The President cancelled all his appointments with his callers and pored over piles of bills. He was assisted by Legislative Secretary Vicente Logarta, Judge Salvador Esguerra, and Executive Secretary Natalio P. Castillo.

He called Secretary of Finance Dominador Aytona and took up questions arising from the many bills which he had certified to Congress.

Malacañang said the President certified to the urgency of 140 bills, 40 of which are Administration measures which have failed to hurdle both chambers of Congress.

The rest of the bills he sent to Congress were pet measures; like, change of names of streets and towns and franchises.

Informed that a delegation of Quezon City squatters were at Malacañang, the President directed Col. Sotero Cacanindin, coordinator of the Malacañang technical staff, to meet the demonstrators. Learning that the squatters

complained of the current campaign by Quezon City authorities to demolish their shanties, the President told Cacanindin to transmit his order to Acting Mayor Vicente Novales to allow the squatters on public lands until such time as the government can complete arrangements for their settlement at the Sapang Palay area in Bulacan.

In the evening the President transmitted a message to Congress asking for the revival of his "standby emergency powers" to enable him to combat the steady rise in the prices of commodities.

He asked Congress to reenact Republic Act No. 2610, which gave him emergency powers authorizing him to fix the maximum prices of essential goods. Republic Act No. 2610 expired last December 31.

May 13.—**T**ODAY President Garcia took time out from the cares of the state to welcome a distinguished guest, U.S. Vice-President Lyndon Baines Johnson, who arrived with Mrs. Lady Bird Johnson.

The Chief Executive cancelled all his appointments this day and waited in Malacañang for his guests who landed in Manila one hour behind schedule and arrived at the Palace 30 minutes late.

"Welcome, Mr. Vice-President," President Garcia greeted Johnson as the latter ascended the Malacañang stairways.

Apologetic and apparently wearied by his tour of Asian countries, Johnson replied: "We would have come on time, but your people have been so good to us."

Johnson exchanged pleasantries with the President, while the First Lady greeted Mrs. Johnson. Behind the Johnsons were Mr. and Mrs. Stephen Smith. Mrs. Smith is the sister of President John F. Kennedy.

Johnson landed at the Manila International Airport at 12:15 o'clock, an hour behind his schedule.

In motoring to Malacañang from the airport, Johnson was delayed anew, as he stopped his car to shake the hands of people who lined the route from the airport to Malacañang along Taft Avenue.

At one time, Johnson got off his "El Dorado" white convertible to shake the hands of the people at the intersection of Taft Avenue and Buendia Streets.

He was bothered by the heat and had to take off his coat.

Later along the route, however, rains fell and the driver had to put the canvas top of the convertible to protect the visiting U.S. Vice-President.

Upon arrival at Malacañang, where he would be house guest of the President, Johnson signed the Palace guest book.

Vice-President and Mrs. Johnson both signed their names and listed their address as "Johnson City, Texas."

After signing the guest book, the Johnsons were invited to the music room for light drinks, and then were invited to a late private luncheon by the President and the First Lady.

In the evening the President and Mrs. Garcia tendered a state dinner in honor of the Johnsons at the state dining room.

In his after-dinner speech the President said that "Asia, occupying one third of the earth's surface and teeming with billions of people of varied races, color, and creed, constitutes the mightiest challenge to, and the supreme test of, American leadership for peace, democracy, and freedom."

At press time the President and Vice-President Johnson were still at the state dining room. They conferred privately at the music room after the state dinner.

**EXECUTIVE ORDERS, PROCLAMATIONS AND
ADMINISTRATIVE ORDERS**

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 748

DECLARING THE PERIOD FROM MAY 7 TO 13, 1961,
AS NATIONAL 4-H CLUB WEEK

WHEREAS, the 4-H Club, an organization of young boys and girls from the rural areas who pledge their heads to clearer thinking, their hearts to greater loyalty, their hands to larger service, and their health to better living for their club, community, and country, has been found to be one of the major forces in improving the standard of living in the rural areas;

WHEREAS, through this organization more than 120,000 boys and girls in and out of school have been developed into more useful young citizens and future leaders, thereby minimizing juvenile delinquency;

WHEREAS, the organization has contributed to the development of the native industries and farm and home skills through its project work in addition to increasing food production and bolstering rural income by millions of pesos;

WHEREAS, through the 4-H Club young people have learned to make wise use of their time and have realized the value of team work and cooperation, two important factors in making the rural areas a better place in which to live; and

WHEREAS, this organization has fostered international friendship and good will by means of exchanges with the United States and East Asian countries.

NOW, THEREFORE, I, Carlos P. Garcia, President of the Philippines, by virtue of the powers vested in me by law, do hereby declare the period from May 7 to 13, 1961, as National 4-H Club Week and designate the Bureau of Agricultural Extension to take charge of and coordinate all activities in celebration of said week. I call upon all our countrymen to turn their thoughts during the week to the great service that this youth organization is doing for our country, both economically and socially, and to extend their cooperation and support to this movement.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 26th day of April, in the year of Our Lord, nineteen hundred and sixty-one, and of the Independence of the Philippines, the fifteenth.

[SEAL]

CARLOS P. GARCIA
President of the Philippines

By the President:

NATALIO P. CASTILLO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 749

DECLARING THE PERIOD FROM MAY 8 TO 14,
1961, AS RURAL BANKS WEEK

WHEREAS, rural banks play a vital role in the economic development of the country;

WHEREAS, the Rural Bankers Association of the Philippines will hold its annual convention on May 11-13, 1961;

NOW, THEREFORE, I, Carlos, P. Garcia, President of the Philippines, in order to give due recognition to the collective efforts of our rural bankers in pushing through the rural banking program, do hereby declare the period from May 8 to 14, 1961, as Rural Banks Week.

The Rural Bankers Association of the Philippines is hereby designated to take charge of the celebration of the week.

In WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 4th day of May, in the year of Our Lord, nineteen hundred and sixty-one, and of the Independence of the Philippines, the fifteenth.

[SEAL]

CARLOS P. GARCIA
President of the Philippines

By the President:

NATALIO P. CASTILLO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 750

CALLING A CONGRESS OF EDUCATORS ON JUNE
14-19, 1961, IN THE CITY OF MANILA

In connection with the celebration of the first centenary of the birth of Jose Rizal, our national hero, I, Carlos P. Garcia, President of the Philippines, by virtue

of the powers vested in me by law, do hereby call a Congress of Educators to convene in the City of Manila on June 14-19, 1961, to discuss Rizal and education.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 4th day of May, in the year of Our Lord, nineteen hundred and sixty-one, and of the Independence of the Philippines, the fifteenth.

[SEAL]

CARLOS P. GARCIA
President of the Philippines

By the President:

NATALIO P. CASTILLO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 751

DECLARING THE CESSATION OF PUBLIC CALAMITY
IN THE PROVINCE OF PANGASINAN

WHEREAS, the existence of a state of public calamity in the City of Manila, Quezon City, Pasay City, City of Cotabato, and the provinces of Rizal, Bulacan, Pangasinan, Nueva Ecija, Tarlac, Pangasinan, and Samar was declared and certified in Proclamation No. 713, dated October 13, 1960;

WHEREAS, from the official reports submitted to me I am satisfied that the existence of a public calamity in the province of Pangasinan has already ceased, and that the conditions have returned to normal;

NOW, THEREFORE, I, Carlos P. Garcia, President of the Philippines, pursuant to the provisions of section 1 of Act No. 4164 of the Philippine Legislature, do hereby declare the cessation of such public calamity in the province of Pangasinan.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 5th day of May, in the year of Our Lord, nineteen hundred and sixty-one, and of the Independence of the Philippines, the fifteenth.

[SEAL]

CARLOS P. GARCIA
President of the Philippines

By the President:

NATALIO P. CASTILLO
Executive Secretary

REPUBLIC ACTS

Enacted during the Fourth Congress of the Philippines
Third Session

H. No. 4546

[REPUBLIC ACT No. 2991]

AN ACT GRANTING THE MUNICIPALITY OF SOLANA, PROVINCE OF CAGAYAN, A FRANCHISE FOR AN ELECTRIC LIGHT, HEAT AND POWER SYSTEM.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Subject to the terms and conditions established in Act Numbered Thirty-six hundred and thirty-six, as amended by Commonwealth Act Numbered One hundred and thirty-two, and to the provisions of the Constitution, there is granted to the Municipality of Solana, Province of Cagayan, for a period of twenty-five years from the approval of this Act, the right, privilege and authority to construct, maintain and operate an electric light, heat and power system for the purpose of generating and distributing electric light, heat and/or power for sale within the limits of the said municipality.

SEC. 2. In the event that the grantee shall purchase and secure from the National Power Corporation electric heat and power, the National Power Corporation is hereby authorized to negotiate and transact for the benefit and in behalf of the public consumers with reference to rates.

SEC. 3. This Act shall take effect upon its approval.

Enacted without Executive approval, June 19, 1960.

H. No. 4579

[REPUBLIC ACT No. 2992]

AN ACT GRANTING THE OLONGAPO ELECTRIC LIGHT AND POWER CORPORATION A FRANCHISE TO INSTALL, OPERATE AND MAINTAIN AN ELECTRIC LIGHT, HEAT AND POWER SYSTEM IN THE MUNICIPALITY OF OLONGAPO, PROVINCE OF ZAMBALES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Subject to the provisions of the Constitution and to the terms and conditions established in Act Numbered Thirty-six hundred and thirty-six, as amended by Commonwealth Act Numbered One hundred and thirty-two, there is granted to the Olongapo Electric Light and Power Corporation, for a period of fifty years from the approval of this Act, the right, privilege and authority to construct, maintain and operate an electric light, heat and power system for the purpose of generating and distributing electric light, heat and/or power for sale within the Municipality of Olongapo, Province of Zambales.

SEC. 2. In the event that the grantee shall purchase and secure from the National Power Corporation electric heat and power, the National Power Corporation is hereby authorized to negotiate and transact for the benefit and in behalf of the public consumers with reference to rates.

SEC. 3. It is expressly provided that in the event the Government should desire to maintain and operate for itself the system and enterprise herein authorized, the grantee shall surrender its franchise and will turn over to the Government all serviceable equipment therein at cost, less reasonable depreciation.

SEC. 4. This Act shall take effect upon its approval.

Enacted without Executive approval, June 19, 1960.

H. No. 4756

[REPUBLIC ACT No. 2993]

AN ACT TO GRANT THE TANAUAN ELECTRIC & DEVELOPMENT CO., INC., OF TANAUAN, BATANGAS, A FRANCHISE FOR AN ELECTRIC LIGHT, HEAT AND POWER SYSTEM FOR THE TOWNS OF TANAUAN AND MALVAR, BOTH OF THE PROVINCE OF BATANGAS.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Subject to the terms and conditions established in Act Numbered Thirty-six hundred and thirty-six, as amended by Commonwealth Act Numbered One hundred and thirty-two, and to the provisions of the Constitution, there is granted to the Tanauan Electric & Development Co., Inc., of Tanauan, Batangas, for a period of twenty-five years from the approval of this Act, the right, privilege and authority to construct, maintain and operate an electric light, heat and power system for the purpose of generating and distributing electric light, heat and/or power for sale within the limits of the towns of Tanauan and Malvar, both in the Province of Batangas.

SEC. 2. In the event that the grantee shall purchase and secure from the National Power Corporation electric heat and power, the National Power Corporation is hereby authorized to negotiate and transact for the benefit and in behalf of the public consumers with reference to rates.

SEC. 3. This Act shall take effect upon its approval.

Enacted without Executive approval, June 19, 1960.

H. No. 4757

[REPUBLIC ACT No. 2994]

AN ACT GRANTING THE PHILIPPINE PRESIDENT LINES, INC., A TEMPORARY PERMIT TO CON-

STRUCT, MAINTAIN AND OPERATE PRIVATE
FIXED POINT-TO-POINT AND PRIVATE COAST-
AL RADIO STATIONS FOR THE RECEPTION
AND TRANSMISSION OF RADIO COMMUNICA-
TIONS WITHIN THE PHILIPPINES.

*Be it enacted by the Senate and House of Representatives
of the Philippines in Congress assembled:*

SECTION 1. There is hereby granted to the Philippine President Lines, Inc., its successors or assigns, a temporary permit to construct, maintain and operate in the Philippines, at the following places, to wit: Main office—Manila City; Cañacao, Province of Cavite; Dalupiri Island, Province of Cagayan; Nasipit, Province of Agusan; Tungao, Province of Agusan; Camp Carmelita, Coron Island, Province of Palawan; Bugo, Province of Misamis Oriental; Ozamiz City, Province of Misamis Occidental; Del Monte, Province of Bukidnon; ships of the Philippine President Lines, Inc., and such places as the said grantee may select, subject to the approval of the Secretary of Public Works and Communications, private fixed point-to-point and private coastal radio stations for the reception and transmission of wireless messages on radiotelegraphy or radiotelephony, each station to be provided with a radio transmitting apparatus and a radio receiving apparatus.

SEC. 2. The President of the Philippines shall have the power and authority to permit the location of said private fixed point-to-point and private coastal radio stations or any of them on lands of the public domain upon such terms as he may prescribe.

SEC. 3. This temporary permit shall continue to be in force during the time that the Government has not established similar service at the places selected by the grantee, and is granted upon the express condition that the same shall be void unless the construction of said stations be begun within two years from the date of approval of this Act and be completed within four years from said date.

SEC. 4. The grantee, its successors or assigns, shall not engage in domestic business of telecommunications in the Philippines without further special assent of the Congress of the Philippines, it being understood that the purpose of this temporary permit is to secure to the grantee the right to construct, maintain and operate private fixed point-to-point and private coastal radio stations at such places within the Philippines as the interest of the grantee and of its trade and business may justify.

SEC. 5. This temporary permit shall not take effect until the Secretary of Public Works and Communications shall have allotted to the grantee the frequencies and wave lengths to be used thereunder, but the grantee, its successors or assigns, may use the international distress frequency of five hundred kilocycles and the high distress frequency of eight thousand two hundred eighty kilocycles whenever necessary.

SEC. 6. No fees are chargeable, as the radio stations that may be established by virtue of this Act shall engage in communications regarding the grantee's business only.

SEC. 7. The grantee, its successors or assigns, shall so construct and operate its radio stations as not to interfere

with the operation of other radio stations maintained and operated in the Philippines.

SEC. 8. The grantee, its successors or assigns, shall hold the national, provincial and municipal governments of the Philippines harmless from all claims, accounts, demands or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of its radio stations.

SEC. 9. The grantee, its successors or assigns, shall be subject to the corporation laws of the Philippines now existing or hereafter enacted.

SEC. 10. A special right is hereby reserved to the President of the Philippines in time of war, rebellion, public peril or other national emergency and when public safety requires, to cause the closing of the grantee's radio station or stations or to authorize the use or possession thereof by any department of the Government without compensation to the grantee for the use of said stations during the continuance of the national emergency.

SEC. 11. This temporary permit shall be subject to amendment, alteration or repeal by the Congress of the Philippines when the public interest so requires, and shall not be interpreted as an exclusive grant of the privileges herein provided for.

SEC. 12. This Act shall take effect upon its approval.

Enacted without Executive approval, June 19, 1960.

H. No. 4775

[REPUBLIC ACT NO. 2995]

AN ACT AMENDING REPUBLIC ACT NUMBERED
TWENTY-THREE HUNDRED THIRTY-NINE

*Be it enacted by the Senate and House of Representatives
of the Philippines in Congress assembled:*

SECTION 1. Section one of Republic Act Numbered Twenty-three hundred thirty-nine is amended to read as follows:

"SECTION 1. Subject to the terms and conditions established in Act Numbered Thirty-six hundred thirty-six, as amended by Commonwealth Act Numbered One hundred thirty-two, and the provisions of the Constitution, the term of the electric light, heat and power system franchise granted to J. V. House by Act Numbered Twenty-seven hundred, as amended, and later transferred to the Tacloban Electric Light and Ice Plants Co., Inc., in accordance with the provisions of the last mentioned Act, is extended for a period of twenty-five years from the date of expiration of the said franchise, but hereafter the Tacloban Electric Light and Ice Plants Co., Inc., shall be governed by the provisions of Act Numbered Thirty-six hundred thirty-six, as amended, and not by the provisions of Act Numbered Twenty-seven hundred, as amended, except the provisions of the latter Act regarding the franchise tax on gross earnings thereof which shall continue to be in full force and effect and which shall be in lieu of any and all taxes of any kind, nature or description, whether national, provincial, city or municipal."

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 19, 1960.

H. No. 4852

[REPUBLIC ACT No. 2996]

AN ACT EXTENDING THE TERM OF THE ELECTRIC LIGHT, HEAT AND POWER FRANCHISE OF THE BACLAYON ELECTRIC LIGHT AND POWER COMPANY, INCORPORATED, AMENDING FOR THE PURPOSE SECTION ONE OF ACT NUMBERED FORTY-TWO HUNDRED SIXTY-FIVE.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section one of Act Numbered Forty-two hundred sixty-five is hereby amended to read as follows:

"SECTION 1. Subject to the rules and conditions established in Act Numbered Thirty-six hundred and thirty-six, there is granted to the Baclayon Electric Light and Power Company, Incorporated, for a period of another twenty-five years from the approval of this Act, the right, privilege, and authority to construct, maintain and operate an electric light, heat, and power system for the purpose of generating and distributing electric light, heat and power, for sale within the limits of the Municipality of Baclayon, Province of Bohol. This franchise shall not be transferable except with the approval of the Congress of the Philippines.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive Approval, June 19, 1960.

H. No. 4863

[REPUBLIC ACT No. 2997]

AN ACT GRANTING THE EASTERN PHILIPPINE ELECTRONICS A FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE RADIO BROADCASTING AND TELEVISION STATIONS IN PROVINCES AND CITIES WITHIN THE PHILIPPINES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Subject to the provisions of the Constitution, as well as of Act Numbered Thirty-eight hundred forty-six, entitled "An Act providing for the regulation of radio stations and communications in the Philippine Islands, and for other purposes;" Commonwealth Act Numbered One hundred forty-six, known as the Public Service Act, and their amendments, and other applicable laws not inconsistent with this Act, the Eastern Philippine Electronics is hereby granted a franchise to construct, establish, maintain and operate for commercial purposes and in the public interest, radio broadcasting and television stations in prov-

inces and cities within the Philippines: *Provided*, That this franchise shall be void unless the construction of at least one radio broadcasting or one television station be begun within three years from the date of approval of this Act, and be completed within five years from said date: *Provided, further*, That the grantee shall provide public service time to enable the Government, through the said radio broadcasting and television stations, to reach the population on important public issues; shall assist in the functions of public information and education; shall conform to the ethics of honest enterprise; and shall not use its stations for the broadcasting and/or telecasting of obscene or indecent language, act or scene, or for the dissemination of deliberately false information or willful misrepresentation, or to the detriment of the public health, or to incite, encourage, or assist in subversive or treasonable acts.

SEC. 2. In the event of any competing person, natural or juridical, receiving from the Congress a similar franchise in which there shall be any term or terms more favorable than those herein granted or tending to place the herein grantee at any disadvantage, then such term or terms shall *ipso facto* become a part of the terms hereof and shall operate equally in favor of the grantee as in the case of said competing person.

SEC. 3. A special right is hereby reserved to the President of the Philippines in time of war, insurrection, public peril or other national emergency and when public safety requires, to cause the closing of the grantee's radio station or stations or to authorize the use or possession thereof by any department of the Government without compensation to the grantee for the use of said station during the continuance of the national emergency.

SEC. 4. The grantee shall not require any previous censorship of any speech, play, act or scene or other matter to be broadcast and/or telecast from its stations; but if any such speech, play, act or scene or other matter should constitute a violation of the law or infringement of a private right, the grantee shall be free from any liability, civil or criminal, for such speech, play, act or scene or other matter: *Provided*, That the grantee, during any broadcast and/or telecast, shall cut off from the air the speech, play, act or scene or other matter being broadcast and/or telecast if the tendency thereof is to propose and/or incite treason, rebellion or sedition, or the language used therein or the theme thereof is indecent or immoral, and willful failure to do so shall constitute a valid cause for the suspension of the operation of said station not to exceed six months.

SEC. 5. The grantee shall hold the national, provincial and municipal governments of the Philippines harmless from all claims, accounts, demands, or actions existing out of accidents or injuries, whether to property or to persons, caused by the construction or operation of the stations of the grantee.

SEC. 6. The grantee may sell, lease, grant, convey, assign, give in usufruct, or transfer this franchise and all property and rights acquired thereunder to any individual, co-partnership, corporation or joint-stock company competent to operate the business hereby authorized under the provisions of the Constitution, as well as under the provisions

of Act Fourteen hundred and fifty-nine, as amended: *Provided, however*, That any such sale, lease, grant, conveyance, assignment, gift in usufruct, or transfer shall not be effective unless and until the vendee, lessee, grantee, assignee, donee or transferee shall have communicated his/its acceptance and made the deposit as provided in Section seven of this Act, which letter of acceptance of said vendee, lessee, grantee, assignee, donee or transferee shall state that it shall be firmly bound to comply with all the terms and conditions imposed upon the grantee by this franchise.

SEC. 7. The grantee shall not commence any construction nor exercise the rights and privileges herein granted without first communicating its acceptance and conformity to the terms and conditions of this franchise to, and making a deposit in an amount of fifty thousand pesos in cash or in negotiable bonds approved by the Central Bank of the Philippines with, the Treasurer of the Philippines. The said deposit shall stand as earnest of good faith on the part of the grantee and as a guarantee that it shall commence the construction of at least one radio broadcasting or one radio television station in any city, municipality or municipal district in the Philippines in a substantial manner within a period of three years from the date of the approval of this Act, and be completed within five years and the Treasurer of the Philippines shall invest the same in interest-earning securities: *Provided*, That if within a period of five years after the approval of this Act, the grantee shall not have commenced operation in any city, municipality or municipal district, then any person, association or corporation with a franchise to conduct a business similar to that of the grantee may operate and furnish to said city, municipality or municipal district the service offered by the grantee. Six months after the grantee shall have commenced operation in any one municipal district, municipality or city, the said deposit shall be returned to the grantee, together with whatever interests it had earned.

Should the grantee fail to communicate its acceptance with the Secretary of Public Works and Communication of the terms and conditions of this franchise as provided in this section, within a period of three hundred sixty days from the approval of this Act, then this franchise shall be deemed *ipso facto* abandoned and forfeited.

SEC. 8. In consideration of the franchise hereby granted, the grantee shall pay unto the respective municipal or city treasury in which it is operating, a tax equal to one-half of one percent of the gross earnings it derives from its operations under this franchise in each of said municipality or city, for the first thirty-five years of operation and for the remaining fifteen years an amount equivalent to one *per centum* of its said gross earnings. Said tax shall be due and payable quarterly and shall be in lieu of any and all taxes of any kind, nature, or description, levied, established or collected by any authority whatsoever, municipal, provincial, city or national, now or in the future, on its buildings, poles, wires, insulators, transformers and structures, installations, conductors, and accessories, placed in and over and under all public or private property, including public or private streets, bridges and public squares, and on its franchise, rights, privileges, receipts, revenues

and profits, for which taxes the grantee is hereby expressly exempted.

For purposes of the tax herein imposed, the grantee shall keep separate records and books of accounts for any and all income it derives from its operations in each municipal district, municipality and city, and such records and books of accounts shall be open for inspection by the Collector of Internal Revenue or his agents within a period of five years from their entry or dates of transaction. Such records and books of accounts shall be prepared in triplicate, the original of which shall be kept by the grantee, the duplicate to be forwarded to the Collector of Internal Revenue through the respective municipal or city treasurers concerned, and the triplicate to be forwarded to the Auditor General for audits and file purposes.

SEC. 9. At any time after thirty years from the date of the approval of this Act or in cases of national emergency when the public safety so requires, in the event that the government should desire to maintain and operate for itself any or/all of the stations herein authorized, the grantee shall turn over such station or stations to the government with all the serviceable equipments therein, at cost, less reasonable depreciation.

SEC. 10. This Act shall take effect upon its approval.

Enacted without Executive approval, June 19, 1960.

H. No. 4894

[REPUBLIC ACT NO. 2998]

AN ACT GRANTING THE SUN BROTHERS APPLIANCES, INC., A TEMPORARY PERMIT TO CONSTRUCT, MAINTAIN AND OPERATE PRIVATE FIXED POINT-TO-POINT AND LAND BASED AND LAND MOBILE RADIO STATIONS FOR THE RECEPTION AND TRANSMISSION OF RADIO COMMUNICATIONS WITHIN THE PHILIPPINES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. There is hereby granted to the Sun Brothers Appliances, Inc., its successors or assigns, a temporary permit to construct, maintain and operate in the Philippines, at Manila and at such places as the said company may select, subject to the approval of the Secretary of Public Works and Communications, private fixed point-to-point and land based and land mobile radio stations for the reception and transmission of wireless messages on radiotelegraphy or radiotelephony, each station to be provided with a radio transmitting apparatus and a radio receiving apparatus.

SEC. 2. This temporary permit shall continue to be in force during the time that the Government has not established similar service at the places selected by the grantee, and is granted upon the express condition that the same shall be void unless the construction or installation of said stations be begun within one year from the

date of approval of this Act and be completed within two years from said date.

SEC. 3. The grantee, its successors or assigns, shall not engage in domestic business of telecommunications in the Philippines without further special assent of the Congress of the Philippines, it being understood that the purpose of this temporary permit is to secure to the grantee the right to construct, install, maintain and operate private fixed point-to-point and land based and land mobile radio stations in such places within the Philippines as the interest of the grantee may justify.

SEC. 4. No fees shall be charged by the grantee as the radio stations that may be established by virtue of this Act shall engage in communications regarding the grantee's business only.

SEC. 5. The grantee, its successors or assigns, shall so construct and operate its radio stations as not to interfere with the operation of other radio stations maintained and operated in the Philippines.

SEC. 6. The grantee, its successors or assigns, shall hold the national, provincial, city and municipal governments of the Philippines harmless from all claims, accounts, demands, or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of its radio stations.

SEC. 7. The grantee, its successors or assigns, shall be subject to the corporation laws of the Philippines now existing or hereafter enacted.

SEC. 8. The grantee, its successors or assigns, is authorized to operate its private fixed point-to-point and land based and land mobile radio stations in the medium frequency, high frequency, and very high frequency that may be assigned to it by the Secretary of Public Works and Communications.

SEC. 9. The grantee shall not lease, transfer, grant the usufruct of, sell or assign this temporary permit, nor the rights or privileges acquired thereunder to any person, firm, company, corporation or other commercial or legal entity, nor merge with any other person, company or corporation organized for the same purpose, without the approval of the Congress of the Philippines first had. Any corporation to which this temporary permit may be sold, transferred or assigned shall be subject to the corporation laws of the Philippines now existing or hereafter enacted, and any person, firm, company, corporation or other commercial or legal entity to which this temporary permit is sold, transferred or assigned shall be subject to all conditions, terms, restrictions and limitations of this temporary permit as fully and completely and to the same extent as if the temporary permit had been originally granted to the said person, firm, company, corporation or other commercial or legal entity.

SEC. 10. A special right is hereby reserved to the President of the Philippines in time of war, rebellion, public peril or other national emergency and when public safety requires, to cause the closing of the grantee's radio station or stations or to authorize the use or pos-

session thereof by any department of the Government without compensation to the grantee for the use of said stations during the continuance of the national emergency.

SEC. 11. This temporary permit shall be subject to amendment, alteration or repeal by the Congress of the Philippines when the public interest so requires, and shall not be interpreted as an exclusive grant of the privileges herein provided for.

SEC. 12. This Act shall take effect upon its approval.

Enacted without Executive approval, June 19, 1960.

H. No. 28

[REPUBLIC ACT No. 2999]

AN ACT GRANTING EFREN V. MENDOZA OF MANILA, A TEMPORARY PERMIT TO CONSTRUCT, MAINTAIN AND OPERATE RADIO BROADCASTING STATIONS IN THE PHILIPPINES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Subject to the provisions of the Constitution, as well as of Act Numbered three thousand eight hundred and forty-six, entitled "An Act providing for the regulation of radio stations and radio communications in the Philippine Islands, and for other purposes;" Act Numbered Three thousand nine hundred and ninety-seven, known as the Radio Broadcasting Law; Commonwealth Act Numbered One hundred and forty-six, known as the Public Service Act, and their amendments, and other applicable laws, there is hereby granted to Efren V. Mendoza of Manila, a temporary permit to construct, maintain and operate, for commercial purposes and in the public interest, radio broadcasting stations in the Philippines: *Provided*, That this temporary permit shall be void unless the construction of at least one radio broadcasting station is begun within six months from the date of the approval of this Act and be completed within two years after said date: *Provided, further*, That the grantee shall provide adequate public service time to enable the Government through the stations herein authorized, to reach the population on important public issues; shall assist in the functions of public information and education; shall conform to the ethics of honest enterprise; and shall not use said stations for the broadcasting of obscene or indecent language or speech, or for the dissemination of deliberately false information or willful misrepresentation, or to the detriment of the public health, or to incite, encourage or assist in subversive or treasonable acts.

SEC. 2. The grantee, his successors or assigns, shall hold the national, provincial, city and municipal governments of the Republic of the Philippines harmless from all claims, accounts, demands or actions arising out of accidents or injuries, whether to property or persons, caused by the construction or operation of his radio stations.

SEC. 3. The grantee shall file a bond in the amount of fifty thousand pesos to guaranty the full compliance and fulfillment of the conditions under which this temporary permit is granted.

SEC. 4. A special right is hereby reserved to the President of the Philippines in time of war, rebellion, public peril, or other national emergency and when public safety requires, to cause the closing of said stations or to authorize the use and operation thereof by any department of the Government without compensating the grantee for the use of said stations during the continuance of the national emergency.

SEC. 5. In the event of any competing individual, partnership or corporation receiving from the Congress a similar temporary permit in which there shall be any term or terms more favorable than those herein granted or tending to place the herein grantee at any disadvantage, then such term or terms shall, *ipso facto*, become a part of the terms hereof and shall operate equally in favor of the grantee as in the case of said competing individual, partnership or corporation.

SEC. 6. In the event that the Government should desire to maintain and operate for itself any or all of the radio broadcasting stations herein authorized, the grantee shall turn over such station or stations to the Government with all the serviceable equipment therein, at cost, less reasonable depreciation.

SEC. 7. The grantee shall be liable to pay the same taxes on his real estate, buildings and personal property, exclusive of the temporary permit, as other persons or corporations are now or hereafter may be required by law to pay.

SEC. 8. The grantee shall not lease, transfer, grant the usufruct of, sell or assign this franchise nor the rights and privileges acquired thereunder to any person, firm, company, corporation or other commercial or legal entity, nor merge with any other person, company or corporation organized for the same purpose, without the approval of the Congress of the Philippines first had. Any corporation to which this temporary permit may be sold, transferred, or assigned, shall be subject to the corporation laws of the Philippines now existing or hereafter enacted, and any person, firm, company, corporation or other commer-

cial or legal entity to which this temporary permit is sold, transferred or assigned shall be subject to all conditions, terms, restrictions and limitations of this temporary permit as fully and to the same extent as if the temporary permit has been originally granted to the said person, firm, company, corporation or other commercial or legal entity.

SEC. 9. The grantee shall not require any previous censorship of any speech, play or other matter to be broadcast from his stations, but if any such speech, play or other matter should constitute a violation of the law or infringement of a private right, the grantee shall be free from any liability, civil or criminal for such speech, play or other matter: *Provided*, That the grantee during any broadcast may cut off from the air the speech, play or other matter being broadcast if the tendency thereof is to propose and/or incite treason, rebellion or sedition, or the language used therein or the theme thereof is indecent or immoral, and willful failure to do so shall constitute a valid cause for the cancellation of this permit.

SEC. 10. The temporary permit granted under this Act shall be subject to amendment, alterations, or repeal by the Congress of the Philippines when the public interest so requires and shall not be interpreted as an exclusive grant of the privilege herein provided for.

SEC. 11. This Act shall take effect upon its approval.

Enacted without Executive Approval, June 19, 1960.

H. No. 3754

[REPUBLIC ACT NO. 3000]

AN ACT GRANTING C. ALCANTARA & SONS, A TEMPORARY PERMIT TO ESTABLISH, MAINTAIN AND OPERATE PRIVATE FIXED POINT-TO-POINT RADIOTELEPHONE STATIONS FOR THE TRANSMISSION AND RECEPTION OF WIRELESS MESSAGES TO AND FROM SAID STATIONS.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The C. Alcantara & Sons, its successors or assigns, is hereby granted a temporary permit to establish, maintain and operate private fixed point-to-point radiotelephone stations in Davao City, and in other parts of the Philippines where it maintains or may hereafter maintain offices or establishments for the operation of its logging and sawmill business, subject to the approval of the Secretary of Public Works and Communications, for the transmission and reception of wireless messages to and from said stations, including its vehicles and boats.

SEC. 2. The President of the Philippines shall have the power and authority to permit the construction, maintenance and operation of said private fixed point-to-point radiotelephone stations on any land of the public domain upon such terms as he may prescribe.

SEC. 3. The temporary permit granted under this Act shall continue to be in force while the Government has not established similar service at places hereinabove stated, and subject to the condition that the grantee, its successors or assigns, shall start operation under said temporary permit within three years from the date of the approval of this Act.

SEC. 4. The grantee, its successors or assigns, shall not engage in domestic business of telecommunications in the Philippines, it being understood that the temporary permit granted under this Act merely secures the right of the grantee to establish, maintain and operate private fixed point-to-point radiotelephone stations at the places hereinabove stated for no other purposes than to promote, protect and subserve the interests of the grantee in the conduct of its logging and sawmill business.

SEC. 5. The actual operation of said private fixed point-to-point radiotelephone stations shall not commence until after the Secretary of Public Works and Communications shall have allotted to the grantee the frequencies and wave lengths to be used thereunder.

SEC. 6. No fees shall be charged by the grantee as the radiotelephone stations that may be established by virtue of this Act shall engage in communication regarding the grantee's business only.

SEC. 7. The grantee, its successors or assigns, shall so construct and operate such stations as not to interfere with the operation of other radio stations maintained and operated in the Philippines.

SEC. 8. The grantee, its successors or assigns, shall hold the national, provincial, city and municipal governments of the Republic of the Philippines harmless from all claims, accounts, demands or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of its radiotelephone stations.

SEC. 9. The grantee, its successors or assigns, shall be subject to the corporation laws of the Philippines now existing or which may hereafter be enacted.

SEC. 10. A special right is hereby reserved to the President of the Philippines in time of war, rebellion, public peril or other national emergency and when public safety requires, to cause the closing of the grantee's radiotelephone station or stations or to authorize the use or possession thereof by any department of the Government without

compensation to the grantee for the use of said stations during the continuance of the national emergency.

SEC. 11. The temporary permit granted under this Act shall be subject to amendment, alteration, or repeal by the Congress of the Philippines when the public interest so requires, and shall not be interpreted as an exclusive grant of privileges herein provided for.

SEC. 12. This Act shall take effect upon its approval.

Enacted without Executive Approval, June 19, 1960.

DEPARTMENT AND BUREAU ADMINISTRATIVE ORDERS AND REGULATIONS

Executive Office

PROVINCIAL CIRCULAR
(Unnumbered)

April 25, 1961

CERTAIN ACTIVITIES SUCH AS SOLICITATION OF CONTRIBUTIONS, ETC., OF THE ANDERSON-FILIPINO AMERICAN GUERRILLA CORPS, UNAUTHORIZED.

To all Provincial Governors and City Mayors:

For information and guidance of all concerned, there is quoted below the Memorandum dated April 18, 1961 of the Secretary of Foreign Affairs to the President on the above subject, which should be given the widest publicity possible in your respective territories:

"In a note dated March 29, 1961, the U.S. Embassy informed the Department that it had received various inquiries regarding the validity of the claims of the Anderson-Filipino American Guerrilla Corps., an organization soliciting funds both from officials and private citizens. Notwithstanding Embassy official statement on the status of said claims which, according to the Embassy note, was given the widest possible dissemination, the said AFAG was reported to have been continuing its activity of soliciting funds on the basis of allegations that were false.

"Although it is gratified by reports of the Philippine Constabulary's efforts in curbing the activities of the AFAG, the Embassy feels that when the victims come to realize the falsity of AFAG's statements, a part of the blame will be placed on the Government of the United States. The Embassy therefore expressed the hope that the Constabulary would be successful in putting an end to the activities of the organization concerned, welcoming at the same time an opportunity whereby it could assist in achieving the desired objective.

"Considering the well-ground apprehension of the Embassy regarding the matter and in order to protect the people from becoming further victims of exploitation, it is recommended that all provincial and municipal officials be cir-

cularized about the unauthorized activities of the AFAG and that copies thereof be posted conspicuously in all public places."

Provincial Governors are requested to transmit immediately the contents hereof to all the Mayors under their jurisdictions who in turn should retransmit the same to all the barrio officials in their respective municipalities.

ENRIQUE C. QUEMA
Assistant Executive Secretary

MEMORANDUM CIRCULAR No. 23

May 8, 1961

INVITING DEPARTMENT HEADS, BUREAU DIRECTORS AND HEADS OF OTHER GOVERNMENT AGENCIES TO ATTEND THE CLOSING EXERCISES OF THE SIXTH MANAGEMENT ANALYSTS COURSE.

In the interest of improved management of the public service, Department Heads, bureau directors, and heads of other government agencies are invited to attend the Closing Exercises of the sixth group of graduates of the management course for Agency Management Analysts conducted by the Management Service of the Budget Commission.

The program will be held at the Little Theatre, U.P. Institute of Public Administration, Padre Faura, Ermita, Manila, on Friday, May 12, at 4:00 o'clock p.m., with Auditor General Pedro M. Gimenez, as Guest Speaker. He will speak on how management in the public service may be further improved.

Besides the Department Heads, bureau directors and other agency heads, at least five ranking employees from each office, preferably chiefs of divisions and office units, whose services can be dispensed with temporarily for this occasion, are urged to attend the exercises.

By authority of the President:

ENRIQUE C. QUEMA
Assistant Executive Secretary

Department of Justice

OFFICE OF THE SOLICITOR GENERAL

ADMINISTRATIVE ORDER No. 291

December 27, 1960

DESIGNATING PROVINCIAL FISCAL JUVENAL K. GUERRERO OF ILOCOS SUR TO ASSIST THE PROVINCIAL FISCAL OF ABRA.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, as amended, Mr. Juvenal K. Guerrero, Provincial Fiscal of Ilocos Sur is hereby designated, effective immediately and to continue until further orders, to assist the Provincial Fiscal of Abra in the investigation and prosecution of the alleged poisoning of Mayor Felix Tuanquin of Tayum, Abra, and Messrs. Evaristo Gramaje and Antonio Tejada, and Mr. Guerrero is administratively accountable to the Secretary of Justice and to the Chief Prosecuting Attorney of his department.

ALEJO MABANAG
Secretary of Justice

ADMINISTRATIVE ORDER No. 1

January 3, 1961

ESTABLISHING THE ORDER OF RANKS AND SALARIES OF ASSISTANT FISCALS IN THE CITY OF MANILA.

Conformably to the provisions of Republic Act No. 272 as amended by Republic Act 400, Republic Act 1201, Republic Act 1571, Republic Act 1860 and Republic Act No. 3010, effective June 19, 1960, the order of ranks and salaries of Assistant Fiscals in the City of Manila is established as follows:

- (a) Hermogenes Concepcion Jr.
City Fiscal P12,000.00 p.a.
- (b) Lorenzo Relova, First Assistant City Fiscal 11,600.00 p.a.
- (c) 1. Carlos C. Gonzales, Second Assistant City Fiscal 11,500.00 p.a.
2. Manases G. Reyes, Second Assistant City Fiscal 11,500.00 p.a.
3. Eulogio Serrano, Second Assistant City Fiscal 11,500.00 p.a.
- (d) 1. Manuel T. Reyes, Assistant Fiscal 11,000.00 p.a.
2. Abelardo M. Dayrit, Assistant Fiscal 11,000.00 p.a.
3. Florentino M. Villanueva, Assistant Fiscal 11,000.00 p.a.
4. Guillermo F. Lim, Assistant Fiscal 11,000.00 p.a.

- 5. Rafael A. Jose, Assistant Fiscal 11,000.00 p.a.
- (e) 1. Melecio M. Aguayo, Assistant Fiscal 10,500.00 p.a.
2. Octavio F. Basa, Assistant Fiscal 10,500.00 p.a.
3. Rafael S. Sison, Assistant Fiscal 10,500.00 p.a.
4. Luis B. Angeles, Assistant Fiscal 10,500.00 p.a.
5. Roberto D. Cabrera, Assistant Fiscal 10,500.00 p.a.
6. Arsenio B. Alcantara, Assistant Fiscal 10,500.00 p.a.
- (f) 1. Antonio G. Alindogan, Assistant Fiscal 10,000.00 p.a.
2. Alfonso N. Francisco, Assistant Fiscal 10,000.00 p.a.
3. Jose T. M. Mayo, Assistant Fiscal 10,000.00 p.a.
4. Marcos Valentin, Jr., Assistant Fiscal 10,000.00 p.a.
5. Avelino B. Concepcion, Assistant Fiscal 10,000.00 p.a.
6. Artemio H. Cusi, Assistant Fiscal 10,000.00 p.a.
- (g) 1. Jose S. Solidum, Assistant Fiscal 9,600.00 p.a.
2. Cesar Paguio, Assistant Fiscal 9,600.00 p.a.
3. Alfredo V. Cruz, Jr., Assistant Fiscal 9,600.00 p.a.
4. Pedro Ma. Sison, Jr., Assistant Fiscal 9,600.00 p.a.
5. Carlos Galman Cruz, Assistant Fiscal 9,600.00 p.a.
6. Ramon V. Jabson, Assistant Fiscal 9,600.00 p.a.
- (h) 1. Antonio G. Isip, Assistant Fiscal 9,000.00 p.a.
2. Olimpio Navarro, Assistant Fiscal 9,000.00 p.a.
3. Donato N. Guevara, Assistant Fiscal 9,000.00 p.a.
4. Agapito G. Magpantay, Assistant Fiscal 9,000.00 p.a.
5. Leandro V. Infante, Assistant Fiscal 9,000.00 p.a.
6. Bernardo C. Tiongco, Assistant Fiscal 9,000.00 p.a.
- (i) 1. Ricardo Catindig, Assistant Fiscal 8,400.00 p.a.
2. Lorenzo P. Magtutu, Assistant Fiscal 8,400.00 p.a.

3. Milagros V. Caguioa, Assistant Fiscal	8,400.00 p.a.
4. Mariano Castañeda, Jr., Assistant Fiscal	8,400.00 p.a.
5. Rodolfo A. Nocon, Assistant Fiscal	8,400.00 p.a.
6. Guillermo R. Viña, Assistant Fiscal	8,400.00 p.a.
(j) 1. Eliodoro E. Marasigan, Assistant Fiscal	7,800.00 p.a.
2. Esteban M. Lising, Assistant Fiscal	7,800.00 p.a.
3. Manuel R. Pamaran, Assistant Fiscal	7,800.00 p.a.
4. Serafin R. Cuevas, Assistant Fiscal	7,800.00 p.a.
5. Luis A. Peña, Assistant Fiscal	7,800.00 p.a.
(k) 1. Mariano C. Chavez, Assistant Fiscal	7,200.00 p.a.
2. Florencio R. de Dios, Assistant Fiscal	7,200.00 p.a.
3. Nazario C. Macaraeg, Assistant Fiscal	7,200.00 p.a.
4. Primitivo Peñaranda, Assistant Fiscal	7,200.00 p.a.
5. Leonardo L. Arguelles, Assistant Fiscal	7,200.00 p.a.
6. Pilar G. Miran, Assistant Fiscal	7,200.00 p.a.
7. Herminio Mariano, Assistant Fiscal	7,200.00 p.a.
8. Lino R. Barbosa, Assistant Fiscal	7,200.00 p.a.
9. Felix B. Bilan, Assistant Fiscal	7,200.00 p.a.
10. Ernesto R. Oxciano, Assistant Fiscal	7,200.00 p.a.
(l) 1. Assistant Fiscal	6,000.00 p.a.
2. Assistant Fiscal	6,000.00 p.a.
3. Assistant Fiscal	6,000.00 p.a.
4. Assistant Fiscal	6,000.00 p.a.
5. Assistant Fiscal	6,000.00 p.a.

ALEJO MABANAG
Secretary of Justice

ADMINISTRATIVE ORDER No. 2

January 5, 1961

DESIGNATING JUSTICE OF THE PEACE LINO G. ENGRACIA OF CLARIN AS ACTING MUNICIPAL JUDGE OF OZAMIZ CITY.

In the interest of the administration of justice and pursuant to the provisions of section 75 of Republic Act 321, otherwise known as the Charter of the City of Ozamiz, Mr. Lino G. Engracia, Justice of the Peace of Clarin, Occidental Misamis, is hereby designated Acting Municipal Judge of Ozamiz City, effective January 3, 1961, and to continue only until the return of the regular incumbent.

ALEJO MABANAG
Secretary of Justice

ADMINISTRATIVE ORDER No. 3

January 4, 1961

AUTHORIZING DISTRICT JUDGE TEOFILO B. BUSLON OF SURIGAO TO HOLD COURT IN TANDAG, SURIGAO DEL SUR.

In the interest of the administration of justice and pursuant to the provisions of Section 51 of Republic Act 296, as amended, the Honorable Teofilo B. Buslon, District Judge of Surigao, is hereby authorized to hold court in Tandag, Surigao del Sur, for one day, the date to be fixed by him, for the purpose of promulgating his decisions in criminal cases pertaining to the province of Surigao del Sur.

ALEJO MABANAG
Secretary of Justice

ADMINISTRATIVE ORDER No. 4

January 4, 1961

DESIGNATING SPECIAL PROSECUTOR FLORENTINO FLOR IN THE DEPARTMENT OF JUSTICE TO ASSIST THE PROVINCIAL FISCAL OF CAGAYAN.

In the interest of the public service and pursuant to the provisions of Section 1686 of the Revised Administrative Code, as amended, Mr. Florentino Flor, Special Prosecutor in the Department of Justice is hereby designated, effective immediately and to continue until further orders, to assist the Provincial Fiscal of Cagayan in the investigation and prosecution of those persons involved in the reported landing of smuggled articles in Sta. Ana, Cagayan, on December 26, 1960 on complaint of Governor Felipe Garduque, and Mr. Flor is administratively accountable to the Secretary of Justice and to the Chief Prosecuting Attorney of this Department.

ALEJO MABANAG
Secretary of Justice

ADMINISTRATIVE ORDER No. 5

January 4, 1961

APPOINTING TEMPORARILY SPECIAL PROSECUTOR FLORENTINO FLOR IN THE DEPARTMENT OF JUSTICE AS ACTING PROVINCIAL FISCAL OF LEYTE.

In the interest of the public service and pursuant to the provisions of Section 1679 of the Revised Administrative Code, Mr. Florentino Flor, Special Prosecutor in the Department of Justice is hereby temporarily appointed Acting Provincial Fiscal of Leyte, in the investigation and prosecution of criminal Case No. 8219 entitled, "People vs. Martin Dacillo and Dominador Potente *alias* Doming" of the Court of First Instance, Tacloban City.

ALEJO MABANAG
Secretary of Justice

ADMINISTRATIVE ORDER No. 6

January 6, 1961

DESIGNATING SOLICITOR LAURO MARQUEZ OF THE OFFICE OF THE SOLICITOR GENERAL AS ACTING MUNICIPAL JUDGE OF MANILA.

In the interest of the public service and pursuant to the provisions of Section 39, Republic Act No. 409, as amended, Mr. Lauro Marquez, Solicitor in the office of the Solicitor General, is hereby designated Acting Municipal Judge of Manila effective January 9, 1961, and to continue only until the return to duty of Municipal Judge Andres Sta. Maria who has been granted leave of absence.

ALEJO MABANAG
Secretary of Justice

ADMINISTRATIVE ORDER No. 7

January 6, 1961

AUTHORIZING DISTRICT JUDGE ABUNDIO ARRIETA OF ORIENTAL MISAMIS AND KIDNON TO HOLD COURT IN CAGAYAN DE ORO CITY.

In the interest of the administration of justice and pursuant to the provisions of Section 56 of Republic Act 296, as amended, the Honorable Abundio Arrieta, District Judge of Oriental Misamis and Bukidnon, Second Branch, is hereby authorized to hold court in Cagayan de Oro City beginning February 16, 1961, or as soon thereafter as practicable, for the purpose of trying all kinds of cases and to enter judgments therein.

ALEJO MABANAG
Secretary of Justice

ADMINISTRATIVE ORDER No. 8

January 11, 1961

APPOINTING ATTYS. ENRIQUE SORIANO JR. AND BUENAVENTURA CORDOVA JR., AS SPECIAL COUNSELS TO ASSIST THE PROVINCIAL FISCAL OF ILOILO.

In the interest of the public service and pursuant to the provisions of Section 1686 of the Revised Administrative Code, as amended, Attys. Enrique Soriano Jr. and Buenaventura Cordova Jr., members of the Legal Panel of the Office of the Provincial Governor of Iloilo are hereby appointed Special Counsels, effective immediately and to continue until further orders, to temporarily assist the Provincial Fiscal of Iloilo in the investigation and prosecution only of delinquent taxpayers in the said province, subject to the control and supervision of the Provincial Fiscal, without additional compensation.

ALEJO MABANAG
Secretary of Justice

ADMINISTRATIVE ORDER No. 9

January 10, 1961

APPOINTING ATTYS. DIOSDADO GARINGALAO, ESTEFANO CASPE, ALFONSO DELICANA, AGUSTIN DUEÑAS, CIRILO ORIAN, JOSE GRANADA, ANTONIO CARREON, AND ANTONIO TUGBANG AS SPECIAL COUNSELS TO ASSIST THE PROVINCIAL FISCAL OF ILOILO.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, as amended, Attys. Diosdado Garingalao, Estefano Caspe, Alfonso Delicana, Agustin Dueñas, Cirilo Ordian, Jose Granada, Antonio Carreon and Antonio Tugbang, all of the Legal Staff of the office of the Provincial Governor of Iloilo, are hereby appointed Special Counsels, effective immediately and to continue until further orders, to temporarily assist the Provincial Fiscal of Iloilo in the investigation and prosecution only of delinquent taxpayers in the said province, subject to the control and supervision of the Provincial Fiscal, without additional compensation.

This amends Administrative Order No. 246 dated October 28, 1960 of this Department.

ALEJO MABANAG
Secretary of Justice

HISTORICAL PAPERS AND DOCUMENTS

PRESIDENT GARCIA'S SPEECH READ BY LABOR SECRETARY ANGEL CASTAÑO REPRESENTING THE PRESIDENT DURING THE LABOR DAY RALLY AT THE ARANETA COLISEUM, QUEZON CITY, MONDAY AFTERNOON, MAY 1, 1961

TO OUR nine million Filipino workers, by whose daily toil the Nation lives, I tender my affectionate greetings; and on behalf of the Republic, a grateful salute.

As President, I have faithfully kept my appointment with you every year on this day for the past four years. Most of the time a President has to deal with high matters and abstract situations; not so on Labor Day. Facing the masses of workers, a President feels that these are the people, not in the abstract but in the flesh; so that if you pricked them, as Shakespears said, they would bleed.

It is important for a President to keep to the ground; the poet must hear the grass grow, but a President must listen to the pulsebeats of a people; he is rarely permitted the luxury of soaring visions; his is a down-to-earth responsibility.

That is why I have always tried to keep my Labor Day appointment with you and have always reserved in the Malacañang appointment book audience with you. In this way I feel reassured that we shall keep faith with each other come "hell or high water."

I look at you now and I reflect on how rapidly our labor force has expanded between the Labor Days. We had a work force of only seven million at the start of 1954; this has since swelled to over nine million. This swelling of the work force is inevitable given the fact that roughly 800,000 new Filipinos are added to our population every year.

By way of historical contrast, there were only five million Filipinos at the time Rizal was born, and seven million when the Revolution against Spain broke out. Only some 65 years later, we have attained to our present remarkable size of almost 28 millions of which more than nine millions are reckoned old enough to be members of the work force.

Herein lies the heart of our problems as an underdeveloped country. Can we grow fast enough economically to catch up with the annual increase in our population? If we should lag in our economic growth, whatever gains we have made will be wiped out or offset by the growth in population.

It is said, therefore, that children are the main cause of poverty in Asia. Not that it is intended to denigrate children, who are the loveliest people, especially when they are your own. But the economies of the poorer countries seem to strain at the pressure of too many babies getting born.

Remember that most of these babies grow up to be workers, just like all babies before them; and the precise problem is that fewer opportunities than babies are created.

In the face of these forbidding prospects, it gladdens me to know that during the past few years, our country has achieved for our workers a higher general real income per capita; that our workers continue to enjoy one of the highest living standards in the underdeveloped areas which cover two thirds of the globe; and that we are now well on the way in our Philippine Industrial Revolution of achieving our goal—a modern industrial economy which will be productive enough to guarantee permanently fairly adequate income for the great masses of our people.

It is through economic development that the masses of our workers, including those who are merely babies today, and those still unborn, will find their self-fulfillment. Your Government, therefore, is deeply preoccupied with the tasks of economic development. All the energies of my administration, to the extent that they can be directed or influenced by the President, are bent on this great and single-minded goal of our generation: the goal of building a modern agro-industrial economy and founded on the principle of a more equitable sharing of freshly generated wealth among all the classes of our society.

Your Government, however, while engrossed in the tasks of economic development, has not been wanting in attention and care for the more immediate problems of our working people. The record shows that in the atmosphere of freedom deliberately created and fostered by the policies of the Government, the number of trade unions has expanded more than four times since the middle of 1953; and these have been very sizeable gains in this area during the past four years alone.

During my administration, I have seen the institution of collective bargaining firmly and irrevocably implanted in our industrial relations, thus firming up the framework of our economic democracy.

I have seen labor department services modernized and greatly expanded, after my own desire; the enforcement of wage and labor standards carried to new levels of efficiency, in the face of great odds; the extension of all labor services to all the regions of the country through the creation of the twelve regional officers—which are little departments of labor in themselves. I have seen the section on women and child labor raised to the bureau level, as I have desired; and I have seen, too, the launching of a broad apprenticeship program, which, in time, should help us create the skilled man-power required by the economic transformation that we are seeking to bring about. I have the fortune of counting with the fullest cooperation and understanding of

one of the most loyal friends of Philippine labor—Secretary Castaño.

But even more than all these, my friends, I feel glad that under my administration we have not only kept our civil liberties, which are like oxygen to the lungs of labor; we have made these freedoms stronger and more than ever secure.

Those of you who have lived through the Liberal reign of terror, and especially those who were made victims of unholy frameups between military and civilian agencies, readily understand what I mean. I have seen to it that the Government shall not stand in the way of workers' organizations and the free articulation of their grievances, beliefs, and ideas.

No worker should be arrested or jailed except through due process of law. This is my conviction, and I have tried my best to enforce it. If there had been failures here and there, I wish that they had been forcefully and immediately brought to my attention.

I shall not stand for the curtailment of civil liberties, and especially of the right to workers' organization, peaceful assembly, and the right to speak and write freely within the limits set by law.

I shall brook no repetition of those grim days when the Liberals occupied the seats of power, the days when a labor leader, no matter how democratic his persuasion, hourly ran the risk of being arrested as a communist, and perhaps shot while trying to escape.

And the labor leader shall have incurred all that, not because he was a subversive, but because he insisted on being free, together with the unions who had placed their faith in him.

So long as I remain President, there shall be no Maliwalu to stain forever the conscience of democratic government.

My enemies call me a communist sympathizer only because I have stood adamant for the proper respect of civil liberties and constitutional rights. Peking and Moscow call me an American puppet simply because I have nothing to do with a godless, totalitarian ideology. Let them threaten me. Let them assassinate my character. I still stand and will ever stand for free conscience, free thought and free labor.

I do not believe I shall yield to anyone in my regard and concern for our national security. I was the President who signed the anti-subversion act into law; and as you know, this law carries the death penalty in extreme cases for those established as being engaged in conspiracies to overthrow the Government. And I was the President who signed the law to outlaw all communist parties from our land. I was one of the Asian leaders who dared to stand between the United Nations and the admission of Communist China

as member thereof. I was one of the architects of SEATO and the Pacific Charter.

The Government, as it has always done, will protect the national security from elements that menace it. A proper concern for the security of the state obliges us to hunt for communists wherever they may be found, and the labor movement is a favorite target as well as a convenient haven for communists. So are the student movements and the ranks of writers, artists, and intellectuals.

Inevitably, therefore, the attention of the Government's surveillance agencies touches these vital groups in our society.

But I do not believe in imperilling the names of many innocent men through an excess of zeal on the part of government agencies. When because of wanton zeal we accuse people as communists and give them a public trial on the basis of vague charges and the flimsiest evidence, we more often than not do democracy a disservice. We dispense thereby with the principle of due process sanctified in our Constitution, without which democracy is reduced to a mockery.

The Constitution and the laws arm us with all the weapons we need to fight the Communists, without transgressing the rights of the people. But the best weapon we can ever oppose to the Communist conspiracy is that which they fear most: a purposeful sobriety and unerring sense of responsibility. The Communists are not ten feet tall. We should never exaggerate their strength. But neither should we underestimate them. And above all, let us not play into their hands by promoting mass hysteria.

Conditions of hysteria are the field in which communists play their best game. And hysteria is such that the rights and freedom commonly associated with a democratic way of life cannot be compatible with it.

Like the other peoples of Asia who are committed to the ideals of freedom, we, the Filipinos, are still engaged in a great and historic experiment: to make democracy work successfully in our region despite poverty, ignorance, and disease.

It is my undying faith that we shall not fail. We must not fail. Philippine democracy is already a rising reality in Asia. And when we say that a democracy is working for our people living under our flag, we are really saying that not only do their lives materially improve, but also that they truly enjoy the freedoms vouchsafed them by their Constitution and by the entire democratic tradition.

Unfortunately, the most dynamic and vital elements in a society are the ones that make full use of the Constitutional freedoms, therefore, these are the elements—workers, artists, and intellectuals who often bear the cruel burden of a senseless, unreasonable, and self-defeating Anti-Communism.

In my own scale of values, my friends, the most effective fighters against Communism are those who do their positive best to contribute to the success of democracy in the Philippines.

I would put in this class the progressive or enlightened businessman together with the responsible unionist; the worker who tries to excel in his line of work so that every one considers him valuable; the citizen who makes full use of his rights, who speaks out, and who does his bit for the success of his community; the professional—whether lawyer, doctor, dentist, engineer, writer, or nurse—who attains a high degree of individual performance in his field and at the same time faithfully discharges his civic responsibilities as a free man in a free society.

All these do not mean that the Republic underrates the threat of Communism of our national security and to the social peace. Your Government will exert every effort, as it has always done, to ferret out those sinister forces whose sole mission in life is to defeat our democracy and implant upon this land the reign of a brutal, totalitarian, and godless ideology. We shall never relent in the task of safeguarding the peace and integrity of our country against the menace of these few fanatics and subverters whose allegiance belongs, not to this Republic, but to foreign powers. For them we reserve the mailed fist of our Christian, democratic, and peace-loving people. But for them we also raise the symbol of hope, should they abandon the life of hatred central in Communism.

But I hope that so long as I am President, we shall no longer be mortified with mass injustices and violence committed against innocent and helpless citizens in the name of Anti-Communism. I pledge I shall brook no Maliwalu incident under my administration. I shall countenance no recurrence of the Liberal reign of terror which inevitably picked its victims from the ranks of the trade unions, the writers, the intellectuals, and the more active youth of our universities and colleges.

But the rest is up to you. The Government is democratic; in accordance with our common principles, the Government creates and guarantees a certain atmosphere of freedom; it creates opportunities, but it is you who are to use them.

Fellow Workers—this is an election year and it is only natural for you to ask where the Administration stand on the different economic questions that affect Labor.

Let me open my heart to you. There you will feel the pulse-beat of gratitude to labor, to you, for the resolutions too many to be read here from labor and trade unions all over the country, as well as from industries, big and small, in which resolutions you have reiterated your confidence in,

and support of, my humble administration and with special reference to my economic policies and programs.

I wish to take advantage of this opportunity to express my undying gratitude for the continued faith and confidence in my administration you have manifested by these resolutions. It gives me more courage. It gives me more inspiration. And I pledge to you that as long as I live, I shall dedicate to the last breath of my life, my heart, my mind, and my arms to the following Articles of Faith:

(1) I believe that economic democracy is an essential bulwark of political democracy.

(2) I believe that to keep the national economic organization democratic the powers, functions, and resources of the State should be utilized to hasten and promote free competitive enterprise.

(3) I believe that our constant endeavor should be to create and maintain conditions under which there will be afforded maximum employment, maximum production, and maximum purchasing power of the peso.

(4) I believe that monopolies should always be prevented, and a system of broader diffusion of economic wealth be achieved and maintained.

(4) I believe that workers, investors, and also consumers should be protected from economic exploitation; such as, monopoly, profiteering, manipulations of prices, and dozens of other ways.

(6) I believe that one of the causes of wastage of economic vitality is the stifling of individual initiative and creativity. I therefore stand for the equality of opportunities between the children of the poor and the rich, through the maintenance and progressive expansion of our educational system to wipe out totally ignorance and illiteracy, and to make every Filipino citizen a positive factor for good.

(7) I believe that it is of the essence that we maintain at all times a sound and vigorous economy. To that end, Science should be called to the service of the nation to develop a manpower trained and dedicated to keep a steady supply of new inventions, new discoveries of materials, new industries, and new opportunities for employment. In this connection a broad and well endowed system of fellowship and scholarship in Science should be opened to Labor.

(8) I believe in low-cost housing project, and the providing of other services needed for rapid and more expansive urbanization, especially in new industrial areas.

(9) I have faith in the social-conscious, welfare-conscious, and God-conscious of Filipino labor. I therefore stand on the rock of conviction that the greatest natural resource the Philippine Republic possesses is the Filipino laborer.

On these Articles of Faith I stand. To fulfill them I stand on this Tablet of Pledges.

PRESIDENT GARCIA'S SPEECH READ BY FOREIGN AFFAIRS SECRETARY FELIXBERTO SERRANO BEFORE THE 7TH ASIAN PEOPLES ANTI-COMMUNIST LEAGUE CONFERENCE, HELD AT THE U.S.T. COLLEGE OF MEDICINE, WEDNESDAY MORNING, MAY 3, 1961

TO BE FREE, to resist restraint, to avoid capture—this is one of the most deeply rooted instincts of every living creature. Man throughout his history has yearned for freedom, worked for it, and fought for it. The noblest pages of man's chronicle record the blood and lives he has paid for it. Yet, today hundreds of millions have been stripped of freedom—in some instances only newly won—and subjected to rule which turns back the clock to serfdom. Under Communist rulers, they enjoy no more human rights, no more human dignity than the slaves of ancient Rome—however much the bars of their cells may be gilded.

To free men everywhere this fact is a matter of gravest concern. How did it happen? How can it be kept from happening to other free men, to other free societies? No other questions of our times clamor more urgently for answers and action. I welcome this opportunity to submit some suggestions.

It is my belief that we have little to fear from Communism, but that we have much to fear from Communists. In this seeming paradox I see Communism as an idea, as a way of life, as prophecy and performance so riddled with fallacy, contradiction, and failure as to be rejected by any informed and matured mind. Let us note just a few examples.

According to Karl Marx, the lot of the worker in capitalist free societies inevitably would deteriorate and his misery, intensify. Yet, today it is in these countries where capitalism is most firmly established that the worker enjoys unprecedented high standards of living, where he is free to organize and bargain collectively, where his unions have grown so powerful and wealthy as to furnish financial assistance to capitalists who have suffered reverses. Where Communism has ruled for almost half a century and resources are richly abundant, the worker still receives little more than essentials for his labor, has no choice in his employment, can belong only to a government-controlled union, and is denied even the right to strike when over-time is exacted as a "patriotic donation."

According to Marx, only the total victory of Communism could abolish imperialism and colonialism. Today the liquidation of old empires is almost complete, the transition in many cases having been orderly and attended by goodwill and continued friendship between the newly independent and the former sovereign. The world's concern today is with the new imperialism of international Communism, which by force of arms and police coercion has clamped its iron rule upon such diverse peoples as the Poles,

Czechs, Hungarians, and Balts of Europe; to the Chinese, Koreans, and Vietnamese of Asia; and which now seeks to add the Congo, Laos, and Cuba to its conquests.

According to Marx, the free nations were doomed to annihilate each other in series of competitive wars for markets. Yet, out of the last war came the unique demonstration of victor helping vanquished to speed reconstruction and resume useful cooperation with the rest of the free world community. And it has been these same free nations which, in the United Nations organization, have taken the initiative in working toward a world rule of law, rather than force. The threat to world peace today comes solely from the aggressive expansionist policies of the Communist block and its obstruction of all efforts to achieve peaceful solutions of world crises.

Illustrations of the bankruptcy of Communism as an idea could be multiplied a hundred-fold, were there time and need. As for some of the more spectacular accomplishments of the Communist world, I would say that the building of the pyramids of Egypt were equally wondrous for their time, and equally costly in the blood, sweat, and lives of slave labor. And a parallel of military power may be drawn from Caesar's legions, likewise easy to deploy as long as captive peoples could be made to feed and equip them.

At this point, however, it is important to emphasize that we have no reason to draw comfort from the failure and inadequacies of Communism. On the contrary, it might be argued that the inability of Communism to compete for the mind of mankind in the free open market of ideas has spurred them to sharpen the techniques of subversive conspiracy which today threaten the survival of free men and a free world. The Communist today gives little thought to socialistic Utopias or to preaching his political doctrine. To the uninformed he directs the big lie and the promise never intended to be kept. To the more sophisticated, he becomes invisible, skillfully manipulating free men against each other to accomplish his ends.

It is significant to note that no Communist government has ever been voluntarily chosen or willingly accepted by those governed. Invariably it has developed out of crises involving other protagonists, the Communist minority taking advantage of an instable situation to seize power. Invariably, Communist rule has required extreme police state coercion to keep it in power. And invariably, a study of the crises which facilitated Communist take-over reveals their agents as prime instigators and provocateurs.

How do we recognize the Communist? How do we detect his destructive activity? That is the crux of our problem. There might be a dozen seated in this very audience. The Communist might look like—or even be—a merchant or a

clerk, a doctor or a teacher, a housewife or a student. He might be motivated by ill-informed idealism or crass ambition, by neurotic hatred or cynical opportunism, by blackmail for some personal indiscretion or threat to a loved one. No device to the underworld is alien to Communist discipline.

You probably would not immediately recognize the Communist if he sat next to you. He would not openly espouse Communism or even suggest the violent overthrow of our system. But he would miss no opportunity to chip away at the foundations of our way of life, systematically working to bring about that situation of unrest or friction or fear or hatred which he and his fellow conspirators consider the proper working climate for their take-over program. Such is the harshness of party discipline that he considers himself on duty every waking hour of the day—at home, at his place of work, in his social contacts. No opportunity is missed to advance “the cause.” No assignment—not even treason to his own nation—is too dirty for his faithful execution.

A homely analogy of the Communist method might be the team of pick-pockets. One provokes your anger or excitement while the other offers help and solicitude. Between the two you lose your wallet. But where the law might apprehend the pickpocket and restore your wallet, when the Communist crime is consummated he becomes the law.

This brings us to discussion of counter-measures, of how a free world of laws can protect itself from the subversive conspiracy which recognizes no law but takes advantage of every law to protect and disguise its sinister operations. We must no longer lull ourselves into a sense of false security by saying that freedom and democracy can compete with the socialist ideology in competition for men’s minds, because this is not the nature of the competition. Nor can we say that social and economic betterment will, of themselves, afford us security, because a prime objective of the enemy is to delay or obstruct such betterment, and because the efficacy of his methods have been demonstrated even where living standards and political maturity are high. What we must face up to is that we are at war, an unconventional form of war, it is true, but a form no less productive of human misery and enslavement. The current agonies of the Congo and Cuba, of Laos and Vietnam and Korea, testify to that.

It may be argued that some of the devices of subversion are not new and that sound societies have withstood them in the past. Lies, distortion, hate and fear-mongering, disruptive rumors—all have been experienced by man since the first organized community. But never before in man’s experience have they been developed and disseminated with such scientific subtlety and precision, and on a coordinated global scale. It is as though a human body had gradually

built resistance to a virus, only to be suddenly attacked by an infinitely more virulent and deadly strain. To delay medication while waiting for the body to develop natural resistance would be fatal.

The Communist party is outlawed in this country, the law prescribing punishment for membership and for the performance of the usual revolutionary acts. But the enemy has lost no time in developing methods of evasion, with tactics of even greater potency. Those to whom the law might apply now remain concealed and avoid direct action. They operate through tools whose names appear on no membership rosters, whose acts—taken singly—stay just within the pale of the law, attaining their destructive force only in cumulative form. Thus, however much our security agencies may be aware of what is happening to take legal action becomes almost impossible without impairing some of the human rights and civil liberties which are a cherished part of our free and democratic social and political system.

This is our dilemma, and we are informed that it is common to the rest of the free world in varying degrees. It is generally agreed that remedial action must not destroy the very freedoms we seek to protect from the Communists. But it is also generally agreed that survival demands a solution.

In our legislature the Committee on Anti-Filipino Activities is pursuing an inquiry into subversion in the educational sector. I am told that other lines of inquiry into other sectors are contemplated. These investigations I am sure will be conducted with objectivity and with a high sense of responsibility commensurate with the gravity of the problem. All those involved, as well as the general public, will likewise contribute the fullest measure of their patience and sober judgment. The stakes are too high to expect less.

While waiting for the subject to be thoroughly explored and specific recommendations offered, however, we must not delay or neglect those counter-measures already available to us. Public information and vigilance is one such. It is important that every one of us understands the enemy's objectives and his methods.

His strategy at the domestic level is to bring about the collapse of our social, political, and economic institutions, taking advantage of the ensuing confusion to seize control and impose the rule of international communism. His global strategy is to isolate us from defensive alliances, facilitating our conquest and commensurately weakening the Free World's collective security system. Whatever we read or hear contributing to these strategic goals, along with its source, must therefore be scrutinized with utmost care to determine whether it is enemy tactic or an honest expression of criticism or bias. To label every criticism

or controversial opinion Communist-inspired is no less irresponsible than shouting "witch-hunt", and "McCarthyism" whenever free men undertake to review their defenses. Both are damaging to the cause of freedom.

Another approach which seems warranted by the circumstances is a careful redefinition of our rights as free men in a free world under crisis. We should not lose sight of the tradition that, when so dictated by the common good, free men have not hesitated to assume voluntarily such limitations upon their freedom as may be required. It would appear to be no violation of any basic right, for example, to require that in vital strategic sectors known to be enemy targets of infiltration, key posts be held only by those whose rejection and opposition to the Communist system and its objectives is complete, unequivocal, and supported by the record. This would seem a minimum security precaution.

Out of this conference I am sure that other short range expedients and longer range remedies will be evolved. What is immediately heartening is the growing international understanding that this is a global threat calling for global counter-action as firm and resolute as any military action.

If the tone of my remarks has been rather grim, I hope you will understand that I do not speak in a spirit of despair. That final victory will not be enjoyed by the Communists I am confident. The gift of freedom having been bestowed upon us by God, it is inconceivable that He would permit it to be wrested from us those who deny Him—except perhaps as a test of our fitness to protect it. There is still time for us to meet and to pass such test successfully, provided we act swiftly, with intelligence and with enduring dedication.

DECISIONS OF THE SUPREME COURT

[No. L-12277. 29 December 1959]

BENITO ORIT, plaintiff and appellee, *vs.* BALRODGAN COMPANY, LTD., defendant and appellant.

OBLIGATIONS AND CONTRACTS; COMPROMISE AGREEMENT; WHEN PERIOD IS FIXED BY COURT; ARTICLE 1196 NOT APPLICABLE.—Article 1196 of the new Civil Code cannot be applied where the parties entered into a compromise agreement ending a controversy and authorizing the Court to fix a reasonable time within which the debtor should pay his debt to the creditor, if they fail to agree upon a date for payment and submit it to the Court. It applies where the parties to a contract themselves have fixed a period.

APPEAL from a judgment of the Court of First Instance of Camarines Norte. Ilao, J.

The facts are stated in the opinion of the Court.

Gonzales and Gutiérrez for the plaintiff and appellee.
Restituto B. Román for the defendant and appellant.

PADILLA, J.:

On 22 November 1955 the plaintiff brought an action in the Court of First Instance of Camarines Norte to collect from the defendant the sum of ₱5,000, the balance of an account due for export logs purchased by the latter from the former, ₱1,500 as attorney's fee, ₱3,000 as moral damages, ₱2,000 as exemplary damages and costs, and to obtain any other just and equitable relief (civil No. 750). On 7 January 1956 the defendant filed an answer. On 25 September 1956 the parties, assisted by their respective counsel, entered into a stipulation of facts and submitted it to the Court. The terms of the stipulation are:

That the defendant admits in open court its obligation to the plaintiff in the amount of FIVE THOUSAND PESOS (₱5,000.00), Philippine Currency, plus interest thereon from December 8, 1955 and costs;

That the parties mutually agreed to submit to the Court a fixed date when the defendant should pay the plaintiff the above obligations, the submission of which date is hereby mutually agreed to be up to not later than November 6, 1956;

That for failure of the parties to submit to the Court the agreed date of payment on November 6, 1956, they mutually agreed that the Court shall have the full power to fix a reasonable time when the defendant should pay, and a judgment therefor shall issue based upon this stipulation of facts.

The parties failed to submit to the Court the date when the defendant had to pay its debt to the plaintiff. On 6 November 1956 the plaintiff filed an ex-parte motion praying that judgment be rendered upon the stipulation

of facts and that the Court fix the time within which the defendant should pay the sum due to the plaintiff. On 28 November 1956 the Court rendered judgment as prayed for ordering the defendant to pay the plaintiff within thirty days from receipt of notice of judgment the sum of P5,000 with legal interest thereon from 8 December 1955 until fully, paid and to pay the costs. On 21 January 1957 the Court denied the defendant's motion for reconsideration dated 12 January 1957. The defendant has appealed.

The appellant admits that it owes the appellee the sum of P5,000. Under the second paragraph of the stipulation of facts, they agreed to set a date for the appellant to pay the appellee, to be submitted to the Court not later than 6 November 1956 and under the third paragraph of the same stipulation, should they fail to set a date for payment on 6 November 1956, the Court may set a reasonable time for the appellant to pay the appellee. As they failed to set a date for payment and submit it to the Court, on motion of the appellee, the Court rendered judgment upon the stipulation of facts and ordered the appellant to pay the appellee within thirty days from receipt of notice of judgment. The judgment rendered by the Court was but in pursuance of the compromise agreement embodied in the stipulation of facts entered into freely and voluntarily by the parties with the assistance of their respective counsel. The appellant cannot now claim and complain that the period fixed by the Court is unreasonable.

Citing article 1196 of the new Civil Code in support of its appeal, which provides that:

Whenever in an obligation a period is designated, it is presumed to have been established for the benefit of both the creditor and the debtor, unless from the tenor of the same or other circumstances it should appear that the period has been established in favor of one or of the other,

the appellant claims that the period of thirty days fixed by the Court redounded to the benefit only of the creditor, the appellee, and not mutually to the creditor and the debtor. In its brief, the appellant prays that it be granted at least a year within which to pay the appellee.

The article cited by the appellant cannot be applied to the case at bar where the parties entered into a compromise agreement ending a controversy and authorizing the Court to fix a reasonable time within which the appellant should pay its debt to the appellee, if they fail to agree upon a date for payment and submit it to the Court. It applies where the parties to a contract themselves have fixed a period.

The appeal interposed by the appellant is manifestly to delay but not to evade payment of its debt. Nothing

has been agreed upon by the parties in their stipulation on that contingency. Hence the collection or recovery of the sums of ₱1,800 as attorney's fee, ₱3,000 as moral damages and ₱2,000 as exemplary damages sought by the appellee in its motion dated 6 May 1957 filed in this Court cannot be granted.

The judgment appealed from is affirmed, with treble costs against the appellant.

Parás, C. J., Bautista Angelo, Labrador, Concepción, Reyes, J. B. L., Endencia, Barrera, and Gutiérrez David, JJ., concur.

Judgment affirmed.

[No. L-13284. February 29, 1960]

PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.*
FRANCISCO COLMENARES and CELSO LLORICO, defendants
and appellants.

1. CRIMINAL PROCEDURE; PLEADING AND PRACTICE; *Pro Forma* RULE; COMPLIANCE WITH PARAGRAPH (a), SECTION 2, RULE 117 OF THE RULES OF COURT.—Accused was convicted for theft of 15 cavans of palay. A motion for reconsideration was filed wherein it claimed that as the ownership of the land from which the palay was allegedly stolen is involved, the case should be suspended until after such ownership shall have been decided by the competent court. A supplemental motion was filed by the accused, arguing that the palay supposed to have been stolen appears to have been owned jointly by him and the complainant, and therefore could not be the subject of theft. *Query*: Are the motions in question *pro forma*? *Held*: They are not, because they raise valid questions of law and fact. Said motions point to errors of law in the judgment prejudicial to the substantial rights of the accused. They satisfy paragraph (a), section 2 of Rule 117 of the Rules of Court.
2. *Id.*; *Id.*; REQUIREMENT IN RULE 37 OF THE RULES OF COURT; GENERAL STATEMENT NOT SUFFICIENT.—Under Rule 37 of the Rules of Court the movant must point out the findings or conclusions in the judgment which allegedly are not supported by the evidence or are contrary to law. Hence, if a motion only makes a general statement that the evidence is insufficient to sustain the judgment or that the same is contrary to law, it cannot be said to satisfy said rule.
3. *Id.*; *Id.*; RULE APPLICABLE ONLY IN CIVIL CASES, NOT IN CRIMINAL CASES.—Rule 37 on new trial as found in the Rules of Court is applicable only in civil cases. The rule regarding new trial in criminal cases is contained in Rule 117. The *pro forma* rule is not applicable in criminal cases.

APPEAL from an order of the Court of First Instance of
Negros Occidental. Teodoro, Sr., *J.*

The facts are stated in the opinion of the Court.

Assistant Solicitor General Florencio Villamor and Solicitor Dominador L. Quiroz for the plaintiff and appellee.
José Sicangco, Jr. and Mario D. Lachica for the defendants and appellants.

LABRADOR, *J.*:

This is an appeal from an order of the Court of First Instance of Negros Occidental, Hon. Jose Teodoro, Sr., presiding, holding that the judgment of the Justice of the Peace court from which the appeal was made to the Court of First Instance in Criminal Case No. 4567 of said court, had already become final, by failure of the defendants to file their notice of appeal on time, and remanding the record to the Justice of the Peace for the execution of the latter's judgment.

Defendants-appellants were charged in the Justice of the Peace court of La Castellana, for the crime of theft of 15 cavans of palay, belonging to the complainant Pedro

Monsale. A trial was held in the Justice of the Peace Court, and on April 18, 1955, the Justice of the Peace found the accused guilty of theft and sentenced each of them to pay a fine of ₱200.00, and in case of insolvency, to suffer subsidiary imprisonment. Accused Llorico received a copy of the decision on April 27, 1955, and accused Colmenares, on April 29, 1955. On May 2, 1955, the attorney for the accused filed a motion to reconsider the judgment, on the ground that in accordance with the documentary evidence presented during the trial it appears that the case involved the question of ownership of the land from which the palay allegedly stolen was raised. Some of the documents presented at the trial show that one J. L. Vda. de Colmenares is a possession of a parcel of land for which she had applied for registration; that a portion thereof, evidently the one from which the palay was harvested, was claimed by the District Forester to be part of the national park and as a matter of fact accused Colmenares had been informed by the District Forester of the Government claim to this portion of the land. The defendants also submitted tax receipts covering the property and two applications to purchase fertilizers, accompanied by promissory notes signed by complainant Pedro Monsale and Urbano Pamonel and guaranteed by one Modesto Colmenares.

The above motion for reconsideration was set for hearing on May 27. The private prosecutor filed an opposition thereto and a petition to strike the same, on the ground that it was *pro forma*. We have not been able to locate the order of the court on this motion for reconsideration, but it appears that on June 1, 1955, the record of the case was received by the clerk of Court of First Instance of Negros Occidental. We presume that the Justice of the Peace court did not act on said motion for reconsideration, or denied the same. Whichever happened is immaterial in this case. Appeal bonds were filed by the accused on May 28, 1955.

Upon the docketing of the case in the Court of First Instance, and on April 10, 1956, the assistant provincial fiscal immediately presented a motion to dismiss the appeal, on the ground that the decision of the justice of the peace court sentencing the accused, having been received by the latter on April 29 and the motion for reconsideration having been denied on May 28, 1955, a period of more than 15 days had elapsed when the appeal was perfected, for the reason that the motion for reconsideration did not interrupt the period to perfect an appeal, it being a *pro forma* motion and, therefore, the decision of the Justice of the Peace court had become final when the appeal was entered. The Court of First Instance sustained this motion to dismiss the appeal. From this order an appeal was

prosecuted to the Court of Appeals, which endorsed the case to Us as involving exclusively questions of law.

It is argued on behalf of appellants that the motion filed in the Justice of the Peace court was not a *pro forma* motion, and secondly, that said court had already ruled that the judgment had not become final when it forwarded the record to the Court of First Instance after appellants filed their notice of appeal. In reply, the Solicitor General supports the ruling of the court below that the motion was *pro forma* and that the same was apparently devoid of merit, and it was therefore presented only for delay.

If, as we find from the documentary evidence submitted at the trial, the accused Colmenares is owner or possessor of a parcel of land belonging perhaps to his mother, which parcel of land has been declared and taxes thereon paid for, the complainant must have been his tenant, and the claim that the motion was for purpose of delay is unfounded. In the motion for reconsideration in question it is claimed that as the ownership of the land is involved the case should be suspended until after such ownership shall have been decided by the competent court. In their supplemental motion dated May 16, counsel for the accused again argued that the palay supposed to have been stolen appears to have been owned jointly by the accused and the complainant and therefore could not be the subject of theft. Both the first motion for reconsideration and the subsequent one cannot be said to be *pro forma*; they raise valid questions of law and fact. Said motions point to an error of law in the judgment prejudicial to the substantial rights of the accused. It can not therefore be said to be merely *pro forma*; it satisfied paragraph (a) of Section 2 of Rule 117 of the Rules of Court, which is as follows:

"SEC. 2. Grounds for a new trial.—The court shall grant a new trial on any of the following grounds;

(a) That errors of law or irregularities have been committed during the trial prejudicial to the substantial rights of the defendant;"

We also find that the *pro forma* rule in motions for reconsiderations has been incorrectly applied in the case at bar, a criminal case. The *pro forma* motion for new trial was first established in Section 497 of the original Code of Civil Procedure, which reads as follows:

* * *

(2) If the excepting party filed a motion in the Court of First Instance for a new trial, upon the ground that the evidence was insufficient to justify the decision, and the judge overruled said motion, and due exception was taken to his overruling the same,

the Supreme Court may review the evidence and make such findings upon the facts by a preponderance of the evidence, and render such final judgment, as justice and equity may require. But, if the Supreme Court shall be of the opinion that this exception is frivolous and not made in good faith, it may impose double or treble additional costs upon the excepting party, and may order them to be paid by the counsel prosecuting the bill of exceptions, if in its opinion justice so requires."

The *pro forma* motion alleged that the evidence is insufficient to justify the decision and was a requirement in order that the Supreme Court may review the evidence submitted and unless such a motion for insufficiency of evidence is presented in the trial court, the Supreme Court could not review the evidence and make its own findings of fact.

When the present Rules of Court were promulgated the above mentioned provision of Section 497 of the Code of Civil Procedures was eliminated. Under the present rules, Rule 37, the movant must point out the findings or conclusions in the judgment which allegedly are not supported by the evidence or are contrary to law. Hence if a motion only makes a general statement that the evidence is insufficient to sustain the judgment or that the same is contrary to law, it can not be said to satisfy Rule 37, Sec. 2, of the Rules of Court. Motions under the old Code of Civil Procedure were not considered as motions *pro forma* or intended for delay, and were not considered as interrupting the period to perfect an appeal. This change has been explained by Chief Justice Moran, as follows:

"When the motion is made upon the causes mentioned in subdivision (c), that is, mistake of fact or of law, it was not necessary, under the old procedure, to set forth, in detail, the reasons in support of the grounds alleged in the motion. This ruling is repealed by the new provision, which requires the motion to point out specifically the findings or conclusions of the judgment which allegedly are not supported by the evidence or are contrary to law, making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings or conclusion. The reason for the old rule was obvious, for a motion for new trial on the ground of mistake of fact was presented as a matter of form, as necessary antecedent to appeal. Under the new procedure, motions of that kind are no longer antecedents to appeal. For this reason, where a motion for a new trial is filed under the third paragraph of this section and fails to "point out specifically the findings or conclusions of the judgment which are not supported by the evidence or which are contrary to law, making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings or conclusions," it shall be treated as a motion *pro forma* intended merely to delay the proceedings and it shall not interrupt or suspend the period of time for the perfection of an appeal." (1 Moran, 1957, pp: 515-516).

Rule 37 on new trial as found in the new Rules is applicable only in civil cases. The rule regarding new trial in criminal cases, is contained in Rule 117. The *pro forma* rule is, therefore, not applicable in criminal cases and the court below erred in applying said rule to the criminal case now under consideration.

WHEREFORE, the order of dismissal of the appeal must be reversed, and the case remanded to the Court of First Instance of origin for trial on the merits. Without costs.

Parás, C. J., Bengzon, Montemayor, Bautista Angelo, Endencia, Barrera, and Gutiérrez David, JJ., concur.

Order reversed.

[No. L-12476. January 29, 1960]

COLLECTOR OF INTERNAL REVENUE, petitioner, *vs.* ANGELO CALIFORNIA NATIONAL BANK (CROCKER-ANGELO NATIONAL BANK), as Trustee for CALAMBA SUGAR ESTATE, INC., respondent.

1. CORPORATION LAW; SHARES OF STOCK; CONSIDERED INTANGIBLE PERSONAL PROPERTIES.—Although shares of stock of a corporation represent equities that may consist of real as well as personal properties therein, they are considered under applicable law and jurisprudence as intangible personal properties.
2. ID.; ID.; REGISTRATION OF TRANSFER NOT ESSENTIAL TO VEST TITLE ON VENDEE.—The provision in section 35 of the Corporation Law (Act No. 1459) which requires the transfer of shares of stock to be noted and entered upon the books of the corporation, does not invalidate the transfer between the parties nor is it essential to vest title upon the vendee. The capital gains sought to be taxed in the case at bar arose from the severance of gain from the investment occasioned by the transfer of title abroad and not on account of any registration that might be effected later.
3. TAXATION; INCOME TAX; CAPITAL GAINS FROM SALE OF SHARES OF STOCK; PLACE OF SALE DEEMED SOURCE OF INCOME.—Section 24 of the National Internal Revenue Code levies income taxes on foreign corporations only on income derived from sources within the Philippines. With respect to capital gains on the sale of personal property, section 37 (e) of the same Tax Code deems the place of sale as also the place or source of the capital gains.
4. ID.; ID.; ID.; ID.; INCOME DEPRIVED FROM SALE ABROAD NOT TAXABLE HERE.—Since in the case at bar the negotiation, perfection and consummation of the contract of sale of the shares of the capital stock in question were all effected in California, U.S.A., it follows that title to those shares passed from the vendor to the vendee at said place, from which time the incidents of ownership were vested on the buyer. Consequently, the income from that sale was derived from abroad, and is not subject to income tax.

REVIEW of a decision of the Court of Tax Appeals.

The facts are stated in the opinion of the Court.

Assistant Solicitor General José P. Alejandro and Special Attorney Librada del Rosario-Natividad for the petitioner
Ozaeta, Gibbs & Ozaeta for the respondent.

REYES, J. B. L., J.:

Respondent Calamba Sugar Estate Inc., herein represented by its trustee, the Angelo California National Bank, is a foreign corporation organized and existing under the laws of the State of California, U. S. A., duly licensed (on May 18, 1946) to do business in the Philippines. It has consistently filed its income tax returns herein through its resident attorney-in-fact. On May 14, 1956, the petitioner Collector of Internal Revenue notified the corporation of an assessment for alleged deficiency income taxes for the years 1953, 1954 and 1955 in the respective amounts of ₱138,855.00, ₱131,759.00 and ₱393,459.00, supposedly based upon capital gains derived from the respondent's sale to the Pa-

sumil Planters, Inc. of 250,000 shares of the capital stock of the Pampanga Sugar Mills (a domestic corporation) and of a promissory note, dated January 1, 1950, executed by the Pampanga Sugar Mills in the sum of \$500,000.00. In on appeal by the respondent from the ruling of the Collector, the Court of Tax Appeals reversed said ruling and absolved the respondent from liability.

This is an appeal by the Collector from that decision.

The parties stipulated that (a) the negotiations leading to the execution and conclusion of the agreement of sale, dated January 16, 1953, between the respondent corporation and the Pasumil Planters, Inc., took place in San Francisco, California; (b) the payments on account of the sale were made by the Pasumil Planters, Inc. at the same foreign city; and (c) the sale was made under and in accordance with the laws of that State. From the evidence presented, it also appears that on December 16, 1955, the Securities and Exchange Commission cancelled respondent's license to transact business in the Philippines, and on December 30, 1955, the corporation was dissolved in accordance with the California law.

The sole issue is whether the capital gains obtained from the sole constituted income from sources within or without the Philippines. It was the opinion of the Tax Court that they were income derived from abroad, and not subject to income tax.

It is hardly disputable that although shares of stock of a corporation represent equities that may consist of real as well as personal properties therein, they are considered under applicable law and jurisprudence as intangible *personal properties* (see Art. 417 (2), Civil Code of the Philippines; Sec. 35, Act No. 1459). Section 24 of the National Internal Revenue Code levies income taxes on foreign corporations *only on income derived from sources within the Philippines*; and which respect to capital gains on the sale of *personal properties*, section 37 (e) of the same Tax Code deems the place of sale as also that place or source of the capital gain:

"* * * Gains, profits, and income derived from the purchase of personal property within and its sale without the Philippines or from the purchase of personal property without and its sale within the Philippines, *shall be treated as derived entirely from sources within the country in which sold.*" (Emphasis supplied)

Construing the same provision of law (which is section 119 (e) of the 1934 Act, U.S. I.R.C.), United State courts are in accord in disallowing the imposition of income taxes by its government on capital gains where the sale takes place outside its territorial jurisdiction. It is likewise the prevailing view that in ascertaining the place of sale, the determination of when and where title to the goods passes from the seller to the buyer is decisive (East Coast Oil Co.

vs. Comm., 31 B.T.A., 558, aff. 85 F. (2d) 322, cert. den. 299 U.S. 608, 81 L.Ed. 449, 57 S.Ct. 234; also *Disconto-Gaesellcraft vs. U.S. Steel Corporation*, 267 U.S. 22; *Compañía General de Tabaco de Filipinas vs. Collector*, 279 U.S. 306, 73 L.Ed. 704, 49 S.Ct. 304).

In this case, it is admitted that the negotiation, perfection and consumation of the contract of sale were all done in California, U.S.A. It follows that title to the shares of stock passed from the vendee to the vendor at said place, from which time the incidents of ownership were vested on the buyer.

The Collector argues that the situs of shares of stock of a corporation is considered to be at the domicile of the latter, as held in some cases cited by him; but in the instant problem, we are not concerned with the imposition of taxes upon the shares themselves, but on a sale *effected abroad* that resulted in capital gains, for which there is a specific provision of law (Sec. 37 [e] N.I.R.C.). As stated by the Tax Court, there is a distinction between the situs of personal properties and the situs of the income derived from the sale or exchange of such properties.

As to the contention that section 35 of the Corporation Law (Act No. 1459) requires the transfer to be noted and entered upon the books of the corporation, such requirement does not invalidate the transfer between the parties nor is it essential to vest title upon the vendee. The capital gains now sought to be taxed, arose from the severance of gains, from the investment occasioned by the transfer of title *abroad* and not on account of any registration that might be effected later.

WHEREFORE, the judgment under review is hereby affirmed. No costs.

Parás C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepción, Endencia, Barrera, and Gutiérrez David, JJ., concur.

Decision affirmed.

[No. L-1272 . February 29; 1960]

MANILA JOCKEY CLUB, INC., petitioner and appellant, *vs.*
GAMES AND AMUSEMENTS BOARD, ET AL., respondents
and appellees; PHILIPPINE RACING CLUB, INC.,
petitioner-intervenor and appellant.

1. HORSE RACING; HOLDING OF RACES BY PRIVATE INDIVIDUALS AND ENTITIES MERELY PERMISSIVE.—Section 4 of Republic Act No. 309, as amended by Republic Act No. 983, specifically reserved 23 Sundays and 16 Saturdays for the Philippine Anti-Tuberculosis Society, the White Cross, Inc. and the Philippine Charity Sweepstakes Office, and 12 Saturdays to the President for other charitable, relief or civic purposes. The remaining racing days were assigned to private individuals and entities duly licensed by the Games and Amusement Board, like the appellants. When Republic Act No. 1502 increased the sweepstake draw and races to twelve but without specifying the days on which they are to be run, the Games and Amusement Board resolved to reduce the number of racing days assigned to private individuals and entities by six. Appellants protested, contending that the said increase should be taken from the Saturdays reserved to the President, or should be assigned to any other day of the week besides Sunday, Saturday, and legal holiday. *Held:* Appellants have no vested right to the unreserved racing days because their holding of races on those days is merely permissive, subject to the licensing and determination by the Games and Amusement Board. When, therefore, Republic Act No. 1502 increased by six the sweepstakes draw and races but without specifying the days for holding them, the Board had no alternative except to make room for the additional races from among the only available racing days unreserved by the law.
2. *Id.*; *Id.*; HORSE RACING ON WEEK DAYS PROHIBITED.—The law does not authorize the holding of horse races with betting on week days (Article 198 of the Revised Penal Code).
3. STATUTORY CONSTRUCTION; INTERPRETATION OF STATUTES; INTENTION OF AUTHOR MUST NOT ONLY BE ASCERTAINED BUT IT IS NECESSARY THAT SUCH INTENTION HAS BEEN EXPRESSED IN SUCH A WAY AS TO GIVE IT LEGAL EFFECT AND VALIDITY.—In the interpretation of a legal document, especially a statute, unlike in the interpretation of an ordinary written document, it is not enough to obtain information as to the intention or meaning of the author or authors, but also to see whether the intention or meaning has been expressed in such a way as to give it legal effect and validity. In short, the purpose of the inquiry, is not only to know what the author meant by the language he used, but also to see that the language used sufficiently express that meaning. The legal act, so to speak, is made up of two elements—an internal and an external one; it originates in intention and is perfected by expression. Failure of the latter may defeat the former. (59 C. J. 1017).

APPEAL from a judgment of the Court of First Instance of Manila. Lantín, *J.*

The facts are stated in the opinion of the Court.

Lichauco, Picazo & Agcaoili for the petitioner and appellant.

First Assistant Government Corporate Counsel Simeón M. Gopengco and Attorney Pedro J. Bautista for the respondent and appellee PCSO.

Assistant Solicitor General José P. Alejandro and Solicitor Pacifico P. de Castro for the other respondents and appellees.

César S. de Guzmán for the petitioner-intervenor and appellant.

BARRERA, J.:

This is a petition for declaratory relief filed by petitioner Manila Jockey Club, Inc., in the Court of First Instance of Manila (Civil Case No. 31274), in which the Philippine Racing Club, Inc. intervened as party in interest with leave of court, praying that judgment be rendered against respondents Games and Amusements Board (GAB), Philippine Charity Sweepstakes Office (PCSO), and Executive Secretary Fortunato de Leon:

“(a) Interpreting Republic Acts Nos. 309 and 1502 in such a manner that the 30 Sundays unreserved for charitable institutions and therefore belonging to the private racing clubs under Section 4 of Republic Act No. 309 continue to pertain to said private entities, and that the 6 additional sweepstakes races authorized under Republic Act No. 1502 should be held on 6 of the 12 Saturdays not reserved for any private entity or particular charitable institution under Section 4 of Republic Act No. 309, or on any other day of the Week besides Sunday, Saturday and legal holiday;

“(b) Holding that respondent PCSO does not have the right or power to appropriate or use the race tracks and equipment of petitioner without its consent, nor can respondents compel petitioner to so allow such use of its race tracks and equipment under pain of having its license revoked.”

Respondents duly filed their respective answers to said petition and the case was heard. After hearing, the court, on July 5, 1957, rendered a decision which, in part, reads:

“The court does not deem it necessary to rule on the deprivation of property of the petitioner and the intervenor without due process of law, as feared by them, because as they have stated, the Philippine Charity Sweepstakes Office is using their premises and equipment under separate contracts of lease voluntarily and willingly entered into by the parties upon payment of a corresponding rental. There is therefore no deprivation of property without due process of law.

“Wherefore, the court is of the opinion and so holds that once a month on a Sunday not reserved for the Anti-Tuberculosis Society, the White Cross and other charitable institutions by Section 4 of Republic Act No. 309, the Philippine Charity Sweepstakes Office is authorized to hold one regular sweepstakes draw and races, pursuant to Section 9 of Republic Act No. 1502, thus reducing the number of Sundays which may be allotted to private entities by the Games and Amusements Board. * * *.”

From this judgment, petitioner and intervenor interposed the present appeal.

The issue is the proper placement of the six (6) additional racing days given to the Philippine Charity Sweepstakes Office, in virtue of Republic Act No. 1502, approved on June 16, 1956.

The authorized racing days specifically designated and distributed in Section 4 of Republic Act No. 309, the basic law on horse racing in the Philippines, as later amended by Republic Act No. 983, are as follows:

A. *Sundays:*

(1) For the Philippine Anti-Tuberculosis Society	12 Sundays
(2) For the Philippine Charity Sweepstakes Office (PCSO)	6 Sundays
(3) For the White Cross, Inc.	4 Sundays
(4) For the Grand Derby Race of the Philippine Anti-Tuberculosis Society	1 Sunday
Total	23 Sundays
(5) For private individuals and entities duly licensed by the GAB, other Sundays not reserved under this Act, as may be determined by the GAB	29 Sundays
or 30 for Leap years	
Total for the year	52 Sundays
or 53 for leap years.	

B. *Saturdays:*

(1) For the Philippine Anti-Tuberculosis Society	12 Saturdays
(2) For the White Cross, Inc.	4 Saturdays
(3) For private Individuals and entities duly licensed by GAB and as may be determined by it	24 Saturdays
(4) For races authorized by the President for charitable, relief, or civic purposes other than the particular charitable institutions named above, all other Saturdays not reserved for the latter	12 Saturdays
Total	52 Saturdays

C. *Legal Holidays:* All, except Thursday and Friday of the Holy Week, July 4th and December 30th have been reserved for private individuals and entities duly licensed by the CAB.

As stated, Republic Act No. 1502 increased the sweepstakes draw and races of the PCSO to twelve, but without specifying the days on which they are to be run. To accommodate these additional races, the GAB resolved to reduce the number of Sundays assigned to private individuals and entities by six. Appellants protested, contending that the said increase should be taken from the 12 Saturdays reserved to the President, for charitable, relief, or civic purposes, or should be assigned to any other day of the week besides Sunday, Saturday, and legal holiday.

Appellants' contention cannot be sustained. Section 4 of Republic Act No. 309, as amended by Republic Act No. 983, by express terms, specifically reserved 23 Sundays and 16 Saturdays for the Philippine Anti-Tuberculosis Society, the White Cross, Inc. and the PCSO, and 12 Saturdays

to the President for other charitable, relief, or civic purposes. These days can not be disposed of by the GAB without authority of law. As to the remaining racing days, the law provides:

"SEC. 4. *Racing days*.—Private individuals and entities duly licensed by the Commission on Races (now GAB) may hold horse races on Sundays not reserved under this Act, on twenty-four Saturdays as may be determined by the said Commission (GAB), and on legal holidays, except Thursday and Friday of Holy Week, July fourth, commonly known as Independence Day, and December thirtieth, commonly known as Rizal Day."

It is clear from the above-quoted provision that appellants have no vested right to the unreserved Sundays, or even to the 24 Saturdays (except, perhaps, on the holidays), because their holding of races on these days is merely permissive, subject to the licensing and determination by the GAB. When, therefore, Republic Act No. 1502 was enacted increasing by six (6) the sweepstakes draw and races, but without specifying the days for holding them, the GAB had no alternative except to make room for the additional races, as it did, from among the only available racing days unreserved by any law—the Sundays on which the private individuals and entities have been permitted to hold their races, subject to licensing and determination by the GAB.

It is suggested that the GAB should have chosen any week days or Saturday afternoons. In the first place, week days are out of the question. The law does not authorize the holding of horse races with betting on week days (See Article 198 of the Revised Penal Code). Secondly, sweepstakes races have always been held on Sundays. Besides, it is not possible to hold then on Saturdays afternoons as, it is claimed, a whole day is necessary for the mixing of the sweepstakes balls, the drawing of winning sweepstakes numbers, and the running of the sweepstakes races. Be that as it may, since the law has given certain amount of discretion to the GAB in determining and allocating racing days not specifically reserved, and since the Court does not find that a grave abuse of this discretion has been committed, there seems to be no reason, legal or otherwise, to set aside the resolution of the GAB.

Furthermore, appellants contend that even granting that the six (6) additional sweepstakes races should be run on Sundays, yet if they are held on a club race day, the GAB should only insert them in the club races and not give the whole day to the PCSO, to the exclusion of appellants. In support of this contention, the following quotation from the debate in the House of Representatives before the voting on House Bill No. 5732, which became Republic Act No. 1502, is cited:

"MR. ABLEDA. If there are no more amendments, I move that we vote in the measure.

"MR. MARCOS. Mr. Speaker, before we proceed to vote on this bill, I want to make it of record that *it is the clear intention of the House to increase by two regular and special Sweepstakes races, making it all in all, twelve, and that in cases where a sweepstakes race falls in a club race day, the Sweepstakes race showed be inserted in the club race.*

"MR. ABLEDA. The gentleman from Ilocos Norte is correct. * * *." (T.s.n., Proceedings in House of Representatives, Congress, May 17, 1956; emphasis supplied.)

Appellants cite in their briefs a number of authorities sustaining the view that in the interpretation of statutes susceptible of widely differing constructions, legislative debates and explanatory statements by members of the legislature may be resorted to, to throw light on the meaning of the words used in the statutes. Upon the other hand, the appellees, likewise, quote in their briefs other authorities to the effect that statements made by the individual members of the legislature as to the meaning of provisions in the bill subsequently enacted into law, made during the general debate on the bill on the floor of each legislative house, following its presentation by a standing committee, are generally held to be inadmissible as an aid in construing the statute. Legislative debates are expensive of the views and motives of individual members and are not safe guides and, hence, may not be resorted to in ascertaining the meaning and purpose of the Lawmaking body. It is impossible to determine with certainty what construction was put upon an act by the members of the legislative body that passed the bill, by resorting to the speeches of the members thereof. Those who did not speak, may not have agreed with those who did; and those who spoke, might differ from each other.¹

In view of these conflicting authorities, no appreciable reliance can safely be placed on any of them. It is to be noted in the specific case before us, that while Congressman Marcos and Ableda were, admittedly, of the view that the additional sweepstakes races may be inserted in the club races, still there is nothing in Republic Act No. 1502, as it was finally enacted, which would indicate that such an understanding on the part of these two members of the Lower House of Congress received the sanction or conformity of their colleagues, for the law is absolutely devoid of any such indication. This is, therefore, not a case where a doubtful wording is sought to be interpreted; rather, if we adopt appellants' theory, we would be supplying something that does not appear in the statute. It is pertinent to observe here that, as pointed out by one

¹ 2 Suthersand construction, 499-501; Ramos vs. Alivarez 51, O. G. 5608.

of appellants' own cited² authorities, in the interpretation of a legal document, especially a statute, unlike in the interpretation of an ordinary written document, it is not enough to obtain information as to the intention or meaning of the author or authors, but also to see whether the intention or meaning had been expressed in such a way as to give illegal effect and validity. In short, the purpose of the inquiry, is not only to know what the author meant by the language he used, but also to see that the language used sufficiently expresses that meaning. The legal act, so to speak, is made up of two elements—an internal and an external one; it originates in intention and is perfected by expression. Failure of the latter may defeat the former.) The following, taken from (9 Corpus Juris 1017,) is in line with this theory:

"The intention of the legislature to which effect must be given is that expressed in the statute and the courts will not inquire into the motives which influence the legislature, or individual members, in voting for its passage; nor indeed as to the intention of the draftsman, or the legislature, so far as it has been expressed in the act. So, in ascertaining the meaning of a statute the court will not be governed or influenced by the views or opinions of any or all members of the legislature or its legislative committees of any other persons."

Upon the other hand, at the time of the enactment of Republic Act No. 1502 in June, 1956, the long, continuous, and uniform practice was that all sweepstakes draws and races were held on Sundays and during the whole day. With this background, when Congress chose not to specify in express terms how the additional sweepstakes draws and races would be held, it is safe to conclude that it did not intend to disturb the then prevailing situation and practice.

"On the principle of contemporaneous exposition, common usage and practice under the statute, or a course of conduct indicating a particular understanding of it, will frequently be of great value in determining its real meaning, especially where the usage has been acquiesced in by all parties concerned, and has extended over a long period of time; * * *." (59 C. J. 1023.)

Likewise, the language of Republic Act No. 1502 in authorizing the increase, clearly speaks of regular sweepstakes draws and races. If the intention of Congress were to authorize additional sweepstakes draws only which could, admittedly, be inserted in the club races, the law would not have included *regular races*; and since regular sweepstakes races were specifically authorized, and it would be confusing, inconvenient, if not impossible to mix these sweepstakes races with the regular club races all on the same day (and it has never been done before), the con-

² Vaughan Hawkins, in appendix to Thayer's Preliminary treatise on Evidence

clusion seems inevitable that the additional sweepstakes draws and races were intended to be held on a whole day, separate and apart from the club races.

Appellants' contention that to compel them to permit the PCSO to use their premises and equipments against their will would constitute deprivation of property without due process of law, deserves no serious consideration. As the lower court has found, every time the PCSO uses appellants' premises and equipment, they are paid rentals in accordance with the terms of separate contracts of lease existing between them and the PCSO.

The decision appealed from, being in consonance with the above findings and considerations of this Court, the same is hereby affirmed, with costs against the appellants.

So ORDERED.

Parás, C. J., Bengzon, Labrador, Concepción, Reyes J. B. L., Endencia, and Gutiérrez David, JJ., concur.

Judgment affirmed.

DECISIONS OF THE COURT OF APPEALS

[No. 18137-R. September 20, 1960]

EUSTAQUIO AVENDAÑO, ET AL., plaintiffs and appellants,
vs. GREGORIO BRILLON, ET AL., defendants and appellees.

1. SALE TO ALIENS; ANNULMENT; STATE'S FAILURE TO COMMENCE ESCHEAT PROCEEDINGS; EFFECT IF ALIEN HAS IN THE MEAN-TIME BECOME NATURALIZED CITIZEN.—The law will not aid either one of the parties in *pari delicto* but leave them where it finds them. Bough vs. Cantiveros, 40 Phil., 210. The vendor of real estate to an alien who is disqualified to hold a title thereto divests himself of such title and cannot sue for the annulment of the contract of sale. The alien, as vendee, holds the property against the whole world except the State, and if the State fails to commence escheat proceedings and in the meantime the alien becomes a naturalized citizen, the State is deemed to have waived its right to escheat the property and the alien's title thereto becomes lawful and valid as of the date of conveyance to him. Vasquez vs. Li Seng Giap, 51 O. G., 717 Caoile vs. Yu Chiao, 49 O. G., 4321; Bautista vs. Uy, 49 O. G. 4336; Rellosa vs. Gaw Chee, 49 O. G. 4345.
2. ACTIONS; PRESCRIPTION; EFFECT OF DISMISSAL UPON PRESCRIPTION.—While the filing of an action would of course stop the running of the statute of limitations, its dismissal or voluntary abandonment by plaintiff would leave the parties in exactly the same position as if no action has been commenced, and said action, by reason of its dismissal or abandonment, takes no time out of the period of prescription. Conspecto vs. Fruto, 31 Phil., 124.

APPEAL from a judgment of the Court of First Instance of Quezon. Del Rosario, J.

The facts are stated in the opinion of the Court.

Alfredo I. Raya, for plaintiffs and appellants.

Rustico V. Nazareno, Jose Vizcocho and Luis Vizcocho, for defendants and appellees.

NATIVIDAD, J.:

The plaintiffs brought this action against the defendants to annul certain deeds of sale and conveyance of a parcel of land located in the municipality of Pitogo, province of Quezon, on the ground that said deeds are null and void. The defendants resist the action alleging that the deeds referred to in the complaint are valid and binding and were executed in good faith and for valuable consideration, and that plaintiffs' action had already prescribed at the time it was filed. After trial, the lower court rendered judgment, declaring that the different deeds of sale and conveyance referred to in the complaint are valid and binding, and that defendant Emiliana Angulo is the true and lawful owner of the property with right to possess the same, and sentencing the plaintiffs to pay, jointly and

severally, to each defendant the sum of ₱500.00, or a total of ₱3,000.00, as attorney's fees and expenses of litigation, with costs against the plaintiffs. From this judgment, the plaintiffs appealed.

It appears in evidence that plaintiffs Eustaquio Avendaño and Sixta Avendaño, who are brother and sister, owned in common a parcel of land, situated in the barrio of Cabulihan, municipality of Pitogo, province of Quezon, which contains an area of 16.9333 hectares and is more particularly described in the complaint. In the latter part of the month of October 1944, said plaintiffs executed in favor of one Tan Peng, *alias* Penga, a written option to sell the land within 90 days for ₱70,000.00, Japanese military notes. Sometime in the month of January 1945, before the expiration of the 90-day period agreed upon in the option, Tan Peng found a buyer for the property in the person of defendant Gregorio Brillon. After some negotiations, the parties agreed on the terms of the sale, and on January 19, 1945, the plaintiffs executed in favor of the buyer Gregorio Brillon a deed conveying the property to the latter for the sum of ₱70,000.00, Japanese military notes, Exhibit "A". On that date, however, only one-half of the purchase price, or the sum of ₱35,000.00, Japanese military notes, was delivered to the vendors, it having been agreed that the other half would be paid as soon as the former owner of the property, Jose Francisco, had signed the deed as instrumental witness. On January 23, 1945, the deed having been signed by Jose Francisco as witness, the balance of the purchase price, or the sum of ₱35,000.00, Japanese military notes, was paid by Gregorio Brillon to the plaintiffs. On that same date, the plaintiffs acknowledged the deed Exhibit "A" as of their own free will before notary public Francisco D. de Jesus, who was the one who drafted it. On the same occasion, the deed, as thus executed and acknowledged, was delivered to Gregorio Brillon, who forthwith paid to the notary public ₱1,000.00 as fees.

About two years after that date, or on February 27, 1947, defendant Gregorio Brillon sold the property to defendant Severino V. Etorma for the sum of ₱5,500.00, Philippine currency, Exhibit "B". On January 24, 1949, the latter sold and conveyed it to defendant Tomas R. Ilagan for the amount of ₱10,000.00, Philippine currency. Exhibit "C". On May 8, 1950, Tomas R. Ilagan, in turn, sold the property to defendant Emiliana Angulo for the sum of ₱6,000.00, Philippine currency. Exhibit "D". The property is now in possession of the latter.

It further appear that defendant Lim Suya became a naturalized Filipino citizen on March 31, 1955, Exhibit I; that Emiliana Angulo was the common-law wife of de-

fendant Lim Bong He, and that the latter had been giving Emiliana Angulo an allowance of ₱100.00 a month.

Appellants made in their brief eight (8) assignments of error. All the questions, however, therein raised center around three main propositions:

First, whether or not the trial court erred in holding that the different sales and conveyances of the property in question, to wit: the sale made by the appellants in favor of appellee Gregorio Brillon recorded in the deed Exhibit "A"; that made by Gregorio Brillon in favor of appellee Severino G. Etorma, recorded in Exhibit "B"; that made by Severino G. Etorma in favor of appellee Tomas R. Ilagan, recorded in Exhibit "C"; and that made by Tomas R. Ilagan in favor of appellee Emiliana Angulo recorded in Exhibit "D", are valid and binding;

Second, whether or not the trial court erred in holding that plaintiffs' action had already prescribed; and

Third, whether or not the trial court erred in sentencing the appellants to pay, jointly and severally, to each of the appellees the sum of ₱500.00, or a total of ₱3,000.00, as attorney's fees and expenses of litigation.

I. Counsel contends under the first proposition that the trial court committed error in not having declared the sale and conveyance of the property recorded in the deed Exhibit "A", and those recorded in the deeds Exhibits "B", "C" and "D", null and void. As regards the first, or the transaction recorded in the deed Exhibit "A", he claims that the real purchaser was not appellee Gregorio Brillon but appellee Lim Suyu, who, as a Chinese citizen, was disqualified to acquire real estate in the country; that appellants' signatures to said deed of sale were secured by intimidation, Lim Suyu having threatened to denounce them to the Japanese authorities if they desisted from executing it; and that the Japanese military notes paid as consideration for the sale was already valueless and no longer legal tender under Executive Order No. 25 of the President of the Philippines, dated March 8, 1945, at the time that sale was executed, for, since the early part of the month of January, 1945, the municipality of Unisan, province of Quezon, was already under the control of the guerrilla unit operating in the locality; and, with respect to the others, or the sales recorded in the deeds Exhibits "B", "C" and "D", that they are fictitious and without valid consideration; and that furthermore, the true purchaser in the sale recorded in the deed Exhibit "D" was appellee Lim Bong He, a Chinese citizen, who is also disqualified to acquire real estate in this country, and not appellee Emiliana Angulo, who was a mere dummy.

We do not share counsel's views. The claim that appellee Lim Suyu was the real purchaser of the property

from the appellants and not appellee Gregorio Brillon is a mere surmise on the part of the appellants. It is not based on any evidence. And when it is considered that the same is denied by the appellees, and the latter's denial appears natural, clear and convincing, we do not see how such claim could be upheld. But, be that as it may, nevertheless such consideration is of no moment. It is well-settled that when parties are *in pari delicto* the law will not aid either one of them but leave them where it finds them. *Bough vs. Cantiveros*, 40 Phil., 210; that the vendor of real estate to an alien disqualified to hold a title thereto divests himself of such title and cannot sue for the annulment of the contract of sale; and that in such cases, the vendee holds the property against the whole world except the State, and if the State fails to commence escheat proceedings and in the meantime the alien becomes, as in the instant case, a naturalized citizen, the State is deemed to have waived its right to escheat the property and the alien's title thereto becomes lawful and valid as of the date of conveyance to him. *Vasquez vs Li Seng Giap*, 51 O. G., 717; *Caoile vs. Yu Chiao*, 49 O. G., 4321; *Bautista vs. Uy* 49 O. G., 4336; *Relosa vs. Gaw Chee*, 49 O.G., 4345.

Appellants' claim that the transaction recorded in the deed Exhibit "A", is null and void because the Japanese military notes paid therefor were valueless and no longer legal tender in Unisan at the time it was entered into, and because appellants' signature to said deed was obtained thru intimidation, is likewise untenable. We find it hard to believe that Japanese military notes were already valueless in Unisan on January 23, 1945, when the transaction took place. Aside from the fact that such claim is contradicted by the witnesses for the appellee, we cannot conceive how, were such the situation, the notary public, who prepared the deed Exhibit "A" and before whom the same was acknowledged, agreed to accept Japanese military notes in payment of his fees. The claim that since the early part of January 1945 the poblacion of Unisan was already under the control of a guerrilla unit operating in the locality might be true. It is an admitted fact, however, that there was still at that time a Japanese garrison in the barrio of Panaon of that municipality, which is only six kilometers distant from its poblacion. The alleged control, therefore, of the poblacion of Unisan by that guerrilla unit was not only incomplete but precarious. Such is not the freedom from enemy occupation and control contemplated in Executive Order of the President No. 25, dated November 18, 1945, relied upon by the appellant. We are likewise not impressed by appellants' claim that their signature to the deed Exhibit "A"

was obtained by intimidation. Said deed was executed in the poblacion of Unisan on January 23, 1945. At that time said poblacion, according to the appellants, was already under the control of the guerrilla unit operating in the locality. They had no motive, therefore, to entertain any fear of being punished by the Japanese authorities. It was easy for them to ask for protection from the guerrilla forces.

We find no merit either in the claim that the transaction recorded in the deeds of sale and conveyance Exhibits "B", "C" and "D" were fictitious. The alleged relationships between the parties were not very close and they are not sufficient to warrant such inference. The fact that appellee Emiliana Angulo was the mistress of appellee Lim Bong He does not necessarily mean that the former was a mere dummy of the latter. It is not denied that she had her own property from which she derived some income, and that she was furthermore receiving a pension of ₱100.00 from said Chinaman. It was not, therefore, impossible that she may have saved the amount with which she acquired the property in question from Tomas R. Ilagan. And even granting that part of the money with which she acquired the property came from Lim Bong He, this fact does not necessarily invalidate the transaction. As has been stated by us in a previous decision:

"What is prohibited by the Constitution and the statutes is the acquisition by an alien for himself of private agricultural lands in the country. If an alien gave or donated his money to a citizen of the Philippines so that the latter could invest it in the purchase of private agricultural lands, or purchased private agricultural lands for a citizen of the Philippines, such acts, provided they are done in good faith, do not violate our laws." (*People vs. Altea, et al.*, CA-G. R. No. 12844-R, Nov. 5, 1956).

II. It is contended under the second proposition that the trial court committed error in holding that appellants' action had already prescribed when it was commenced.

We find counsel's contention equally unfounded. The conveyance made by the appellants in favor of appellee Gregorio Brillón took place on January 23, 1945. If we were to consider this action as one to annul a contract on the ground that the consent of the appellants was obtained thru force or intimidation, they had only four years from that date within which to seek annulment of the contract. That period had long expired before the instant action was commenced on February 7, 1955. If we were to consider the action as one of recovery of real property on the ground that the transaction was null and void, or for other reasons, appellants' action had likewise already prescribed. Actions of this nature prescribe within 10 years, and that period had already elapsed when this action was instituted. Appellants cannot claim that the

filing by them of an action on September 17, 1950, concerning the transaction and based on practically the same grounds, interrupted the running of the period of prescription. That action was dismissed. And in the case of *Conspecto vs. Fruto*, 31 Phil., 124, it was held:

“* * * While the commencement of the action would of course stop running of the statute of limitations, its dismissal or voluntary abandonment by plaintiff would leave the parties in exactly the same position as if no action had been commenced at all. Said action by reason of its dismissal or abandonment took no time out of the period of prescription.”

III. Counsel contends under the third proposition that the trial court erred in sentencing the appellants to pay, jointly and severally, to each of the appellees P500.00, or a total of P3,000.00, as attorney's fees and expenses of litigation. It is claimed that as the appellants acted in good faith in filing this action and they were of the honest belief that their case was meritorious, the case does not call for the award of attorney's fees and expenses of litigation, under Article 2208 of the New Civil Code.

Counsel's contention is untenable. Under Article 2208 of the New Civil Code, attorney's fees and expenses of litigation may be awarded to the winning party in cases of clearly unfounded civil actions, or in any other cases where the court deems it just and equitable. In the instant case, it is clear that appellants' action is unfounded. Moreover, the property was not in the hands of all the appellees, but only in that of appellee Emiliana Angulo. There was, therefore, no need for the appellants to include in the action appellees Lim Suya, Gregorio Brillon, Severino Etorma and Tomas R. Ilagan. The issues raised with respect to the successive conveyances of the property to these parties could have been raised without joining them as parties thereto. Yet, they were joined as parties and compelled to engage the services of lawyers and incur expenses to defend their rights. Under the circumstances, the trial court did not commit error in making the award of attorney's fees and expenses of litigation complained of.

FOR THE FOREGOING, we hold that the judgment appealed from is in accordance with law and supported by the evidence. Consequently, the same is hereby affirmed with the costs taxed against the appellants.

IT IS SO ORDERED.

Angeles and Amparo, JJ., concur.

Judgment affirmed.

[No. 26152-R. July 25, 1960]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee,
vs. FERNANDO FERRER Y GALAO and DATU AMANTE,
 accused and appellants.

CRIMINAL LAW; THEFT.—The taking by a prospective vendee of personal property with the owner's consent to a place where the purchase price thereof was agreed to be paid does not, pending payment of the purchase price, transfer legal or juridical possession of the property to said prospective vendee, so that asportation thereof by him before such payment constitutes the crime of theft. This, for the reason that the perfection of the contract of sale and effectivity of the delivery of the property were dependent upon a future event—payment of the agreed price.

APPEAL from a judgment of the Court of First Instance of Manila. Gatmaitan, *J.*

The facts are stated in the opinion of the Court.

Mario M. Arzadon, for accused and appellant Fernando Ferrer y Galao.

Angel Al. Caluntad, for accused and appellant Datu Amante.

Assistant Solicitor General Jose P. Alenjandro and *Attorney Concepcion F. Torrijos*, for plaintiff and appellee.

CABAHUG, *J.*:

Convicted of theft and sentenced by the Court of First Instance of Manila to undergo an indeterminate penalty of from 6 months of *arresto mayor* to 1 year, 8 months and 21 days of *prisión correccional*, to indemnify Ernesto Escaler in the sum of ₱1,050.00 and to pay the costs, Fernando Ferrer and Datu Amante appealed mainly on the ground that no crime of theft had been committed.

Appellants were charged with taking, stealing and carrying away, with intent of gain, the following personal properties described in the information:

One Philco air conditioner	₱380.00
One Zenith radio receiver	120.00
One Phono record changer	180.00
One Steel travelling bag with combination lock	200.00
One Canbas assorted color golf bag	170.00

The facts which gave rise to the case at bar, as correctly stated by appellant Ferrer's counsel, are as follows:

"Ernesto Escaler who is the owner of the personal properties subject of the case at bar is a businessman with residence at No. 431 Remedios Street, Manila, but with office at downtown Manila. On or about September 2, 1958, he advertised for sale to the public in the Manila Times, the personal properties described and mentioned in the information aforequoted. As it was necessary for him to leave the house to go to his downtown office, he left his housemaid Segundina Eleazar to take care of the sale with the instruction not to sell them without receiving the payment. No sooner had he left the house in the morning of said date, the accused Fernando

Ferrer and Datu Amante, the appellants herein, appeared and offered to buy the advertised goods. They therefore agreed on the price with the understanding that they would go back, as they did in fact go back, in the afternoon of the same day to get the articles.

True to their understanding, the defendant-appellants went back in the afternoon to get the articles which Segundina voluntarily allowed them to load in a taxi. But as the duo did not bring with them the corresponding payment, Segundina rode with them in the same taxi for the purpose of getting the cash payment which the defendants-appellants represented to her to be given to her in an office at the Globe Theater Building at Quezon Boulevard. Upon reaching the Globe Theater Building, the defendants-appellants discharged the articles from the taxi and brought them to the lobby of the said Globe Theater Building. Segundina was asked to go up the building with the defendant, Datu Amante, for her to be paid, leaving the defendant, Fernando Ferrer, downstairs with the articles for the reason that said articles could not be accommodated in the elevator but had to be brought up by the stairs by certain laborers when he (Ferrer) would look for and hire to bring them upstairs.

While already upstairs, Amante excused himself to enter one of the offices to get the payment but he never came out anymore, having slipped out of the building from another exit. As Segundina could no longer see either of the defendants in or around the building, she telephoned her master with whom she proceeded to the police precinct to make the corresponding report and complaint. Thus, the defendant appellants were apprehended, charged and convicted of the crime of theft."

When the prosecution rested its case, appellants, who were represented below by a common counsel, moved for the dismissal on the ground "that the evidence presented by the prosecution does not constitute theft." And when this motion was denied in open court on November 10, 1958, the defense asked for the postponement of the reading of the decision to December 18 of the same year. However, on this latter date, appellant Amante, upon his petition, was permitted by the trial court to introduce evidence in support of his defense that he had nothing to do with the negotiation which his co-appellant had with Segundina Eleazar and which culminated in the removal of the aforecited goods from the house of the aggrieved party. Amante's testimony to this effect was not corroborated, and its rejection by the lower court cannot be revised here in the absence of any fact of importance which had been overlooked or misconstrued by the same court in the evaluation of the evidence. We therefore hold that the facts as narrated in appellant Ferrer's brief, which substantially dovetail with that of the prosecution, accurately portrays the participation of appellant Amante in the deal which resulted in the initiation of this case.

As they did in the lower court, appellants now contend mainly that the existence of an allegedly perfect contract of purchase and sale, with the delivery of the articles sold, negates their commission of any crime, much less of theft. "The parties thereto could only demand specific perform-

ance of their respective obligations borne out of the perfected contract of sale," appellants assert. This contention is untenable. That Segundina Eleazar, in accordance with her master's instructions, consented to the loading of the advertised articles on a taxi and their transfer to the Globe Theater building where payment therefor was to be made does not constitute perfection of the contract of sale and delivery of the goods. The perfection of the contract and the effectivity of the delivery were dependent upon a future event, to wit, the payment of the agreed price. In fact, even the material possession of the goods had not been transferred as yet to appellants, because Eleazar, riding in the same taxicab on which the goods were loaded, exercised such material possession. It may be said that this had been momentarily transferred to appellant Ferrer when Eleazar, upon his advice, went up to the office via the elevator with appellant Amante, thus leaving the goods with appellant Ferrer on the ground floor. But because it had been agreed that the goods were to be brought up by the stairs to the office where the legal transfer of the property was to be made upon receipt of payment of its price, no juridical possession had so far been effected when appellants disappeared with the goods described in the information. Hence, they committed theft.

"When the delivery of a chattel or cattle has not the effect of transferring the juridical possession thereof, or title thereto, it is presumed that the possession of, and title to, the thing so delivered remains in the owner; and the act of disposing thereof with intent of gain and without the consent of the owner constitutes the crime of theft." (U. S. vs. Nieves de Vera, 43 Phil. 1000.)

"Where only the material possession is transferred, conversion of the property gives rise to the crime of theft; where both material and juridical possession is transferred, misappropriation of the property would constitute estafa; and where in addition to the material possession, the ownership of the property is transferred, misappropriation would only give rise to a civil obligation." (Vol. 2, part 2, Francisco, Revised Penal Code, 1098; *People vs. Aquino*, 36 O. G. 1886, 23, 1938.)

WHEREFORE, finding it to be in accordance with the law and evidence, the judgment appealed from is affirmed at appellants' cost.

IT IS SO ORDERED.

Dizon and Makalintal, JJ., concur.

Judgment affirmed.

[No. 21268—R. July 29, 1960]

ANDRES PASCUAL, plaintiff and appellant, *vs.* DAMASO MARCELINO and MAXIMO VIRAY, defendants and appellees.

1. JUDGMENT; REGULARITY OF JUDICIAL PROCEEDINGS PRESUMED.—An order or decision need not specify that a hearing was had, and the absence of such a statement cannot overcome the presumption of regularity in judicial proceedings.
2. ACTIONS; "RES JUDICATA"; SUBSTANTIAL IDENTITY.—*Res judicata* does not require absolute but only substantial identity of parties, subject matter and cause of action between a former case and a pending case.
3. LAND REGISTRATION; CERTIFICATE OF TITLE; DECREE OF REGISTRATION; SUBSEQUENT DISMISSAL OF APPLICATION FOR REGISTRATION, EFFECT OF.—Notwithstanding the dismissal of an application for registration upon the reopening of a decree, the title issued under such decree is not thereby obliterated but is merely transferred to the person deprived or to an innocent purchaser for value, as the case may be, and the holder of the title is entitled to be recognized as the owner of the property. This is so because once a decree is rendered and the record is duly made and the certificate issued, the land becomes registered land (76 C.J.S. 574). Furthermore, sections 38 and 39 of Act 496 states that the "decree of registration shall bind the land, and quiet title thereto" and "every person receiving a certificate of title in pursuance of a decree of registration, and every subsequent purchaser of registered land who takes a certificate of title for value in good faith shall hold the same free from all encumbrance."

APPEAL from a judgment of the Court of First Instance of Bataan. Dollete, J.

The facts are stated in the opinion of the Court.

Avelino Pascual and *Francisco Lavides*, for plaintiff and appellant.

Banzon, Villaruel & Manansala, for defendants and appellees.

LANTING, J.:

This case involves a piece of land, converted into fishpond, in Hermosa, Bataan, containing an area of 207,989 square meters and covered by Transfer Certificate of Title No. T-990 of the Register of Deeds of Bataan issued in the name of plaintiff-appellant Andres Pascual. In his complaint filed with the Court of First Instance of Bataan, said plaintiff-appellant alleges that he is the owner and actual possessor of said land which he acquired by purchase from Filemon M. Salcedo on January 19, 1948; that by force and intimidation, defendants-appellees Damaso Marcelino and Maximo Viray had been committing and was still threatening to commit acts of depredation on, and causing injuries to, the fishpond by cutting nipa palms, catching fish and shrimps and carrying them off and by illegally stopping the repair of dikes and water-gates and other works ordered by plaintiff to be done in the pre-

mises, and that by such unlawful acts, appellant sustained damages in the total amount of P5,000.00. He prays that appellees be declared to have no title or interest whatsoever in the land in question; that the title of plaintiff thereto be declared valid and binding against the whole world; that appellees and all other persons who may join with them as co-defendants and their relatives, agents and hired men be restrained perpetually from asserting any right to the land and from invading the same or in any way, molesting, intruding or interfering with appellant's possession thereof; and that appellees be ordered to pay jointly and severally the amount of P5,000.00 as damages.

In their answer, defendants-appellees Damaso Marcelino and Maximo Viray claim, among other things, that the land in question has been in their possession since 1926 and their predecessors-in-interest, the late spouses Doroteo Mallari and Simona Mañgalindan from whom they derived their title, had been in possession of the property since time immemorial; that while 1/7 of the fishpond, or about 3 hectares, was acquired by appellant from Porfiria Mallari, one of the children and heirs of Faustino Mallari who was entitled to that portion as one of the heirs of the original owners, the remaining 6/7 portion of about 17 hectares has always been possessed by appellees for themselves and their co-owners and co-heirs up to the present time. They further allege that the land which was designated as lot No. 546 of the cadastral survey of Hermosa, Bataan, is the same parcel of land which was the subject-matter of registration proceedings initiated by Jose Villegas and Irene Santos in the Court of First Instance of Pampanga in Land Case No. 745, G.L.R.O. Record No. 28521; that the decision dated November 2, 1926, in said case ordering the adjudication and the registration of the land in favor of the spouses Jose Villegas and Irene Santos was subsequently revoked by a subsequent decision of the same Court, which decision the Supreme Court reversed on appeal and the case was remanded to the court of origin for the determination of the respective rights and interests of the parties therein; and that the Transfer Certificate of Title No. 990 allegedly issued in the name of appellant Andres Pascual is null and void, the same having been fraudulently obtained and illegally issued. Appellees finally allege also that due to malicious institution of criminal complaints by plaintiff against defendants and to plaintiff's acts and disturbance of their possession, they suffered damages, actual, moral and physical, in the amount of not less than P10,000.00, and they pray that plaintiff be condemned to pay said amount.

On January 31, 1957, after a long delay due to changes of judges and the incidents that arose from the case, the

lower court rendered a decision in favor of defendants, the dispositive portion of which reads as follows:

"IN VIEW OF THE FOREGOING CONSIDERATIONS, the Court hereby renders judgment in favor of the defendants and against the plaintiff.

"a. Dismissing the complaint of the plaintiff;

"b. Declaring the defendants and their co-heirs mentioned on pages 29 to 32 of this decision as the owners of $\frac{1}{4}$ of the land, Lot No. 546 of the Cadastral Survey of Hermosa, Bataan;

"c. Ordering the plaintiff to pay the defendants the sum of P10,000.00 by way of moral damages;

"d. Declaring Transfer Certificate of Title No. 990 and all previous titles and Decree No. 253434 as null and void; and

"e. Ordering the plaintiff to pay the costs."

From said decision, plaintiff has interposed this appeal, assigning the following errors:

"1. The lower court erred in not holding that the plaintiff Andres Pascual is the absolute owner of the land and fishpond in question and in not dismissing the claim of ownership of the defendants to said land and fishpond as entirely without any legal foundation;

"2. The lower court erred in not holding that plaintiff Andres Pascual is a purchaser in good faith of the land and fishpond in question, entitled to full protection of the law as a holder and transferee of a Torrens title without knowledge of any defect in his title when he became the holder and transferee thereof in due course;

"3. The lower court erred in not holding that the defendants and their co-heirs were guilty of laches when they did nothing from 1927 to 1947 in order to apprise the Land Registration Office, the Register of Deeds, the Courts, and the public in general that the decree that gave rise to OCT-15978 of Pampanga was set aside by an order of the Court of First Instance of Pampanga in 1927, which also dismissed the application for registration, but which dismissal was reversed by the Supreme Court in 1934 by a remand directing further proceedings for the determination of the rights of the parties therein, thus permitting the transfer of said title to several purchasers and transferees in good faith until the property was purchased in good faith by Andres Pascual in January 19, 1948 to whom TCT-990, was issued without any notation of lien or encumbrance except a mortgage in favor of the Philippine National Bank, which the said purchaser assumed as part of the consideration of P21,000.00 which he paid for said property to the last preceding holder in due course of the title thereof; and

"4. The lower court erred in awarding damages in favor of defendants, and in not awarding damages to the plaintiff."

The following excerpt from the decision appealed from gives partly the facts which find support in the record of the case:

"From the evidence submitted by both parties, it appears that Lot No. 546 of the Cadastral Survey of Hermosa, Bataan was originally within the territorial jurisdiction of Lubao, Pampanga and was described in plan Psu-49470. Jose D. Villegas and Irene Santos * * * bought this property from one Porfiria Mallari. So they filed a petition for the registration of the said land under Case No. 745, G.L.R.O. Record No. 28521 in the Court of First Instance of Pampanga on July 7, 1926. This application was granted in a decision rendered on November 2, 1926 and when said decision became final, Decree No. 253434 was issued on April 12, 1927 by the Chief,

General Land Registration Office. Pursuant to this decree, Original Certificate of Title No. 15978 was issued by the Register of Deeds of Pampanga on May 12, 1927. In a petition to review the decree presented on December 2, 1927 and after appeals were made to the Supreme Court, the Court of First Instance of Pampanga issued an order on January 13, 1931 setting aside the decision of November 2, 1926 and cancelling Decree No. 253434 dated April 12, 1927. In a hearing conducted after the decree was set aside, the Court of First Instance of Pampanga rendered on January 4, 1932, a decision dismissing the application for registration of Jose D. Villegas and Irene Santos for the reason that the land applied for was not the exclusive property of the applicants. This decision was appealed to the Supreme Court which remanded the records of the case to the Court of First Instance of Pampanga for the determination of the respective rights and interest of the parties in the case. This decision revoked the decision of the Court of First Instance of Pampanga of January 4, 1932 in so far as it dismissed the application because the Supreme Court ruled that the Court of First Instance has authority to determine the respective rights and interest of the parties in a land registration proceeding without dismissing the application if it can be determined in the same proceedings."

The CFI of Pampanga to which land registration case No. 745 was remanded reheard the same, but because some pleadings and documentary evidence as well as the transcript and notes of the oral evidence were lost in 1941 no decision could be rendered therein.

In 1935, the spouses Jose D. Villegas and Irene Santos sold the land to the spouses Bonifacio Rodriguez and Justina de Rodriguez who converted it into a fishpond. In 1936, this same property was sold by the Rodriguezes for ₱14,000.00 to the spouses Sinforoso Pascual and Romana Aquino. On July 6, 1944, the property was sold by Sinforoso Pascual to the spouses Jose D. Villegas and Irene Santos who on August 17, 1944 sold it to Filemon M. Salcedo from whom it was purchased by appellant Andres Pascual on January 19, 1948 for ₱21,000.00. At the time appellant bought the land it was mortgaged to the Philippine National Bank and the encumbrance was annotated on the back of Salcedo's TCT No. 5970. Appellant assumed Salcedo's obligation under the mortgage. After the purchase, appellant immediately took possession and introduced improvements in the fishpond.

Like Jose D. Villegas and Irene Santos, each subsequent purchaser of the land was issued a new certificate of title.

The original certificate of title issued in the name of the Villegas spouses was not ordered cancelled either in the decision of the CFI of Pampanga setting aside the decree of registration or in the decision of the Supreme Court remanding the case, so that the property continued to appear in the records of both the Register of Deeds of Pampanga and the General Land Registration Office as registered in the name of Jose D. Villegas and Irene Santos

Prior to the rendition of the Supreme Court's decision, the property was found to be lot No. 546 of the Cadastral Survey of Hermosa, Bataan, and the title was ordered transferred from Pampanga to Bataan. Apparently, following the transfer of the title to Bataan, the lot was included in the cadastral proceedings then pending in said province, and in Expediente Catastral No. 26 of the CFI of Bataan, Judge Francisco Zandueta, issued Order No. 3843 on January 24, 1934 ordering the Register of Deeds of the Province to cancel the certificate of title issued to the spouses Jose D. Villegas and Irene Santos in Pampanga and to issue a new certificate also in the name of said spouses but with a new description of the land to conform with the technical description in the cadastral survey of Hermosa. A new transfer certificate of title (No. 2486) was accordingly issued bearing the date of June 2, 1934.

It also appears that in 1936, Faustino Vicente, the one who, together with Leocadia Dagal, filed the petition for the revision of the decree of registration of the land in Pampanga (Exp. 745, G.L.R.O. Record No. 28521), filed another action, this time, in the CFI of Bataan for the recovery of ownership and possession of the land, the case having been docketed as Civil Case No. 1493. In that case, the spouses Sinforoso Pascual and Romana Aquino to whom the property was sold by the Rodriguezes, filed a third-party complaint against Maria de la Peña, wife of appellee Maximo Viray, and twenty other persons claiming to be co-owners of the land as descendants of its original owners, Doroteo Mallari and Simona Mangalindan. In a decision entered in said case on April 27, 1939, the Court declared Sinforoso Pascual and Romana Aquino as the absolute owners of the land and fishpond in question.

Under the first assignment of error, appellant contends that whatever claims appellees might have to the land and fishpond are barred under the doctrine of *res judicata* by Order No. 3843 of the Bataan CFI and the judgment of the same Court in Civil Case No. 1493. There is no question that the subject-matter of these two cases is the same property involved in the case at bar. There is also no question that appellees and their co-heirs were in effect held in those two cases not to be the owners of any portion of the property in litigation. Both the order in the cadastral case and the judgment in Civil Case No. 1493 have become final and no longer subject to review.

But appellees contend in connection with the cadastral case that although it appears on the face of Order No. 3843 that it was issued in the course of a cadastral

proceeding, it is apparent that there was no hearing conducted in said case and the order was issued solely on the strength of the report of the Chief of the Land Registration Office that said Lot No. 546 was already covered by a certificate of title issued in Pampanga and that the description of the land contained therein needed only to be changed to make it conform to the technical description in the cadastral survey. In this particular, appellees rely mainly on the trial court's statement in the appealed decision that "an examination of this Order No. 3843 does not show that there was such a cadastral hearing conducted to hear claims on said Lot No. 546". It is not necessary that if a hearing was had such fact must be specifically stated in the order or decision. The absence of such a statement cannot overcome the presumption of regularity in judicial proceedings.

Then appellees refer to the letter of the Chief, Land Registration Office, dated May 8, 1934 in which instructions were given for the preparation of a new transfer certificate of title covering the lot in question and the transmittal of the same to the Register of Deeds of Bataan Province within whose jurisdiction said land now lies as a result of a boundary dispute between the municipalities of Hermosa in Bataan and Lubao in Pampanga. There is nothing in said letter which, as erroneously assumed by appellees, "sustains the view that no adjudication as to the ownership of Lot No. 546 of the Hermosa Cadastre was ever made in a cadastral hearing". In the first place, the letter was dated May 8, 1934 while Order No. 3843 was entered by Judge Francisco Zanduetta of the Bataan CFI about three and a half months before, or, to be exact, on January 24, 1934. In the second place, the letter was addressed to the Register of Deeds of Pampanga, not Bataan. Under the circumstances, the letter could not have served as the basis of the order. It is more logical to infer that the letter was written because of the order. No evidence having been adduced by either party on this point, we believe that the presumption that the procedure prescribed by law, including the actual hearing of the case, was followed, has not been overcome. In the absence of evidence on either side, it would not be safe to say that the requirements of due process were violated.

In connection with the decision in Civil Case No. 1493, it is argued that the same cannot constitute *res judicata* because the court did not acquire jurisdiction over the persons of appellees, no summons having been served upon them. Here again appellees failed to overcome the presumption in favor of the legality and regularity of a ju-

dicial proceeding by clear, strong and conclusive evidence. Said decision states, in part, as follows:

"En la vista, no comparecio el reclamante demandante Faustino Vicente y por esta incomparecencia se sobreseyo su demanda a peticion de los abogados de los demandados y de los terceristas demandantes; y por no haber contestado la demanda de tercera los demandados Maria de la Peña et al., estos fueron todos declarados en rebeldia."

Why would the court embody such a statement in the decision if the third-party defendants were not served with summons? The testimonial evidence offered by appellees to show that no summons were issued to the "terceristas" in said case is not convincing enough to warrant a conclusion that the court, through oversight or with deliberate intent, deprived said "terceristas" of their day in court. It will be noted that appellee herein, Damaso Marcelino, and Maria de la Peña, wife of the other appellee, Maximo Viray, are mentioned as third-party defendants in said Civil Case No. 1493.

Under the circumstances, we find that there is identity of parties, subject-matter and cause of action between said Civil Case No. 1493 and the present case. *Res judicata* does not require absolute but only substantial identity. Accordingly, we hold that appellees are estopped from raising again the question of ownership of the land in question.

"The foundation principle upon which the doctrine of *res judicata* rests is that parties ought not to be permitted to litigate the same issue more than once; that when a right or fact has been judicially tried and determined by a court of competent jurisdiction, or an opportunity for such trial has been given, the judgment of the court, so long as it remains unreversed, should be conclusive upon the parties and those in privity with them in law or estate. It is considered that a judgment presents evidence of the facts of so high a nature that nothing which could be proved by evidence *aliunde* would be sufficient to overcome it; and therefore it would be useless for a party against whom it can be properly applied to adduce any such evidence, and accordingly he is estopped or precluded by law from doing so. Such is the character of an estoppel by matter of record, as in case of an issue on a question of fact, judicially tried and decided." (Moran's Comments on the Rules of Court, 1952 Ed., Vol. I, pp. 865-866)

In connection with the second assignment of error, appellant seeks protection as a buyer in good faith. For their part, appellees claim that appellant was cognizant of certain facts affecting the title to the property and should not have relied solely on the vendor's certificate of title but should have conducted personal investigation to be certain that the title of the vendor had no defect. That appellant knew about this property before it was offered to him for sale is not sufficiently established by evidence. As any other purchaser in good faith and for value, he had the right to rely upon the certificate of

title shown to him by the vendor, Salcedo. The fact, as annotated on the back of the certificate, that the property was mortgaged to the PNB, must have strengthened his belief that it belonged to Salcedo whose name appears in the certificate as the owner. What is more, the sale to appellant was the sixth absolute transfer of this property and he cannot be deprived of it unless it be shown that he and all the purchasers before him are guilty of bad faith, considering specially that each transfer gave rise to the issuance of, and is evidenced by, a new certificate of title.

But appellees argue also that appellant cannot claim the benefit of good faith in his purchase of the land because the land has not been brought yet under the operation of the General Land Registration Act. The premise of this argument is wrong because upon the issuance of the original certificate of title, the land should be considered brought under the operation of the land registration law. In other words, from 1926 when the Villegas spouses obtained Torrens title, the land has been a registered property.

"The land described in the application is formally 'brought under' registration by the issue of a certificate of title in the name of the person entitled, for the estate to which such person is entitled (I Vargas & Mañalac, *The Philippine Land Registration Law*, 335, citing Hogg, *Torrens System*, p. 759)."

"Where a decree for registration has been rendered and the record duly made and the certificate issued, the land becomes registered land (76 C.J.S. 574)."

"Initial Registration. This expression will be used to describe what is in some system called 'first registration' and in others 'bringing land under the Act' or 'bringing land under the new system' (Hogg, *Registration of Title to Land Throughout the Empire*, 22)."

"Registration" means:

"(a) bringing lands under the provisions of this Act" (Idem. 601).

The foregoing view finds support in the provisions of Sections 38 and 39 of Act 496 to the effect that the "decree of registration shall bind the land, and quiet title thereto" and that "every person receiving a certificate of title in pursuance of a decree of registration, and every subsequent purchaser of registered land who takes a certificate of title for value in good faith shall hold the same free of all encumbrance." This will be so notwithstanding the dismissal of the application for registration upon reopening of the decree as happened in the present case, because upon such dismissal the title would not be obliterated but would merely be transferred to the person deprived or to an innocent purchaser for value, as the case may be, and the holder of the title is entitled to be recognized as the owner of the property.

"A mortgagee of registered land for value and in good faith cannot be deprived of his rights by the reopening of the decree of registration, but under the special circumstances of the case, the decree may be reopened without disturbing the mortgage lien upon the land." (*Angelo vs. Director of Lands*, 49 Phil. 838)

"And indeed no other solution was possible. If the mortgagee * * * in good faith had placed reliance upon Certificate of Title No. 786 * * * and thereby acquired a valid lien on the land described therein, she would not be protected were the land declared to be still unregistered because of the reopening of the original decree. * * * the setting aside of the original decree was operative only between the parties to the fraud and the parties defrauded or their privies; but not against acquirers in good faith and for value * * * and her successors in interests. The position maintained by appellants therein would, if sustained, violate the basic principle of the Land Registration Act that if there is any innocent purchaser for value (which term includes an innocent mortgagee), the decree shall remain in full force and effect forever (Sec. 38). [*Domingo et al vs. The Mayor Realty Corp. and the Register of Deeds of Tarlac*, G. R. No. L-2701, Sept. 30, 1957]."

"We still hold that, in registration proceedings, a cadastral court has no authority to award a property in favor of persons who have put in no claims to it and have never asserted any right of ownership thereover, and the certificate of title issued under the circumstances to such persons would be declared null and void. Where, however, innocent third persons, relying on the correctness of the certificate of title thus issued, acquire rights over property, the court cannot disregard such rights and order the total cancellation of the certificate. The effect of such an out-right cancellation would be to impair public confidence in the certificates of title, for everyone dealing with property registered under the Torrens System would have to inquire in every instance as to whether the title has been regularly or irregularly issued by the court. And this is contrary to the evident purpose of the law. Section 39 of Act 496 provides that every person receiving a certificate of title in pursuance of a decree of registration, and every subsequent purchaser of registered land who takes a certificate of title for value in good faith, shall hold the same free of all encumbrance except those noted on said certificate. We have heretofore emphasized, and do so now, that every person dealing with registered land may safely rely on the correctness of the certificate of title issued therefor and the law will in no way oblige him to go behind the certificate to determine the condition of the property." (*Director of Lands vs. Abache et al.*, 73 Phil. 606)

Appellant, in his third assignment of error, also raises the question of estoppel by laches based on the failure of appellees to take such steps as would have prevented the transfer of the land to several purchasers in good faith. It is not necessary to go into this or any other issues as we have already amply demonstrated above that appellant has acquired valid title to the parcel of land in question.

It is, of course, regrettable that appellees will lose their share in the land which should be theirs by inheritance. But for this, appellant is not to blame. The fault lies with appellees' co-heir who, although entitled to only an aliquot part of the property, sold the whole of it.

As to appellant's claim for damages which is the subject-matter of his fourth assignment of error, we believe and hold that the same is not supported by clear, satisfactory evidence.

In view of the foregoing considerations, the judgment appealed from is reversed and another entered declaring appellant as the absolute lawful owner of Lot No. 546 of the Cadastral Survey of Hermosa, Bataan, and perpetually restraining appellees, their agents and co-heirs from interfering with appellant's possession of the property. Without pronouncement as to costs.

IT IS SO ORDERED.

Paredes, Pres. and San Jose, J., concur.

Judgment reversed.

[No. 19008-R. July 29, 1960]

JUAN CABAL, plaintiff and appellee, *vs.* JUAN CAYTON and BENITA PASCUA, defendants and appellants.

1. HOMESTEAD; REPURCHASE; APPLICABILITY OF ARTICLE 1616 OF NEW CIVIL CODE.—The general provisions of Article 1616 of the New Civil Code to the effect that the vendor cannot avail himself of the right of repurchase without returning to the vendee the price of the sale, and in addition, the necessary and useful expenses made on the thing sold, apply to homesteads sought to be repurchased under Section 119 of the Public Land Act (C.A. 141), in view of the absence of any provision in the latter Act governing the matter.
2. *Id.*; *Id.*; EXPENSES FOR LEVELLING, CLEARING AND FIXING DIKES NOT CONSIDERED NECESSARY OR USEFUL EXPENSES.—Necessary expenses being those incurred for the preservation of the thing, and useful expenses, those which increase the value or augment the income of the property (III Padilla, Civil Law, p. 1065), expenses incurred in levelling, clearing and fixing dikes of a parcel of land do not fall under either of said categories, the same being mere incidents to cultivation in order to expect a better harvest which should sufficiently compensate labor.

APPEAL from a judgment of the Court of First Instance of Nueva Vizcaya. De Veyra, *J.*

The facts are stated in the opinion of the Court.

F. S. Galutera, for defendants and appellants.

Felino C. Quiming, for plaintiff and appellee.

NARVASA, *J.*:

Plaintiff Juan Cabal acquired as homestead a parcel of land containing 15 hectares, 6 ares and 40 centares situated in barrio Mungia, municipality of Dupax, province of Nueva Vizcaya, under Homestead Patent No. 20656 issued November 26, 1932, and covered by Original Certificate of Title No. RHP 81 (660), issued April 29, 1933. On February 20, 1946, he executed a deed of sale (Exh. D; Exh. 1) in favor of defendant, Juan Cayton, married to Benita Pascua, covering an undivided portion of the aforesaid homestead, containing an area of 2 hectares and 64 ares (26,400 sq. m.), for and in consideration of ₱2,000.00. On October 28, 1946, another undivided portion with an area of 5,000 sq. m. was sold by him to defendant for the sum of ₱400.00, the deed of sale therefor being Exhibit E or Exhibit 2. On August 1, 1947, another deed of sale (Exh. F; Exh. 3) was executed by him in favor of defendant, Juan Cayton, covering another undivided portion of 5,000 sq. m. in consideration of ₱800.00. On September 25, 1947, still another undivided portion of 1 hectare and 36 ares was sold by him to defendant for the sum of ₱2,000.00, the deed of sale being Exhibit G, which is also Exhibit 4.

Section 119, Commonwealth Act No. 141, known as the Public Land Act, subjects every conveyance of land acquired as homestead, to repurchase within five years from date of conveyance. Hence, on February 13, 1951, plaintiff wrote defendant Juan Cayton informing that he was repurchasing all the lands he had sold and that he was ready to pay all the amounts paid plus all expenses of making the contracts (Exh. K); and on the following day, he instituted this action for said purpose and for recovery of liquidated damages of P4,500.00 and the sum of P1,350.00 annually from the filing of the second amended complaint until possession of the entire lands in question is delivered to him, alleging, with respect to the deed of sale of September 25, 1947 (Exh. G; Exh. 4), that the same is null and void, the true intention and agreement between him and defendants being that the area to be sold was only 4,375 sq. m. and not 1 hectare and 36 ares, and that the consideration was P603.80 instead of P2,000.00. He further alleged that the entire parcels of land in question, aggregating 5 hectares, had an average annual yield of no less than 300 cavans of palay, one-half of which being share of the tenant, and the other half that of the owner, and that the price of a cavan of threshed palay in 1952 was P11.00; in 1953, P10.00, and in 1954, P9.00.

The defendant spouses filed an answer with counterclaim for (1) P3,000.00 representing money and in kind paid to plaintiff for his right of redemption; (2) P150.00 spent for the preparation and ratification of the deeds of sale; (3) P4,500.00 spent for improvement of the land in question into its present productive state, which expense is necessary and useful, and (4) P200.00 spent for the survey of the land.

Plaintiff's reply was to the effect that defendants had never paid anything whether in money or in kind for plaintiff's right of redemption; that defendants had not spent anything for the improvement of the lands, the same being old ricefields, first-class irrigated ricelands since 1928 or thereabouts, and completely cleared, levelled and cultivated and planted to rice, with good rice dikes and good irrigation system, when sold to defendants; that the expenses for notarizing the contracts of sale amounted to P75.00 only, and that plaintiff is not liable for the payment of the expenses of defendants for their own subdivision survey.

After trial, the lower court rendered decision on December 27, 1955, the dispositive portion of which reading:

"En virtud de las consideraciones arriba expuestas, el Juzgado dicta decision y declara el demandante Juan Cabal con derecho a recomprar de los demandados Juan Cayton y Benita Pascua las cuatro porciones de terreno en cuestion, debiendo pagar a estos

en la recompra de la porcion de terreno descrita en la primera causa de accion, la suma de ₱2,000.00; en la de la porcion de terreno descrita en la segunda causa de accion, la suma de ₱400.00; en la de la porcion de terreno descrita en la tercera causa de accion, la suma de ₱400.00; y, en la de la porcion de terreno descrita en la cuarta causa de accion, la suma de ₱2,000.00; mas la suma adicional de ₱50.00 como gastos de escrituracion en cada una de las cuatro ventas; y debiendo los demandados Juan Cayton y Benita Pascua, a su vez, otorgar las correspondientes escrituras de recompra o retroventa, que por la ley sean suficientes y legales, a favor del demandante Juan Cabal, y, restituir al mismo tiempo la posesion de dichas cuatro porciones de terreno, una vez recompradas, al demandante. Se sobresee la contrademanda excepto en lo que se refiere al pago de los gastos de escrituracion que ya ha sido objeto de pronunciamiento mas arribas. Y con las costas a cargo a de los demandados."

Upon being served with copy of the aforesaid decision on January 6, 1956, the defendants, on the same date, filed a motion for reconsideration, and under date of February 2, 1956, a notice of appeal. On February 4, 1956, the Court, favorably acting upon the aforesaid motion for reconsideration of defendants, amended the dispositive part of its decision by ordering "al demandante Juan Cabal a pagar a los demandados Juan Cayton y Benita Pascua la suma de ₱800.00 en vez de ₱400.00 cuando aquel verificare la recompra de la porcion de terreno descrita en la tercera causa de accion."

Two errors have been assigned by defendants-appellants as having allegedly been committed by lower court, namely, (1) in not finding that the defendants-appellants incurred necessary and useful expenses on the land in question in the total amount of ₱5,000.00, and (2) in not ordering the plaintiff-appellee to reimburse the defendants-appellants the sum of ₱5,000.00 covering said necessary and useful expenses. According to appellants, in the absence of any provision in the Public Land Act (CA No. 141) governing the matter, the provisions of Article 1616 of the Civil Code apply to the effect that the vendor cannot avail himself of the right of repurchase without returning to the vendee the price of the sale, and in addition, the necessary and useful expenses made on the thing sold.

The so-called necessary and useful expenses claimed by the appellants are those supposedly incurred in leveling the land with bulldozers and in clearing the same, for doing which appellants paid ₱5,000.00 to Eustaquio Vilorio. This was testified to by defendant, Juan Cayton, and bulldozer operator, Eustaquio Vilorio, who declared, substantially, that in February and March, 1948, the land having become "forested" was levelled with two bulldozers; that the rice dikes were straightened; the rice paddies, widened; and the land, cleared of *tanglags* and *talahibs*. On the other hand, plaintiff, Juan Cabal,

and adjoining land owner, Lucas Castro, denied that the land was levelled with bulldozers, said witnesses declaring, substantially, that the land in question was completely cleared and cultivated long before and at the time the same was sold to appellants; that said land had been regularly cultivated and planted to rice every year since 1928 up to the present, even during the Japanese occupation, and was never abandoned except only in 1944 when the rice harvest had to be abandoned due to the war.

Confronted with such conflicting evidence, the lower court disposed of the matter as follows: "El Juzgado entiende que es deficit creer que el demandado Juan Cayton haya gastado la suma de ₱5,000.00 para la roturacion y limpieza de las cuatro porciones de terreno en cuestion, que miden cuarto hectareas mas o menos y, por las cuales, pago dicho demandado la suma total de ₱5,000.00. Y si es verdad lo que reclama el demandado Juan Cayton que el trabajo hecho por el dueño de las maquinas (bulldozers) fue para el ensanche de los varios arrozales y existentes, no es posible que dicho demandado Juan Cayton haya gastado la citada suma de ₱5,000.00. En todo caso, el ensanche de los arrozales existentes y el acto de componer algunos pilapiles rotos en los mismos no eran mejoras de caracter permanente sino mas bien trabajos de produccion y de cultivo, por las cuales, el demandado tiene derecho al reembolso de los gastos incurridos por el con motivo de los mismos."

Necessary expenses being those incurred for the preservation of the thing, and useful expenses, those which increase the value or augment the income of the property (III Padilla, Civil Law, p. 1065), the expenses said to have been incurred in levelling, clearing and fixing the dikes of the land in question hardly fall under either of said categories, the same being mere incidents to cultivation in order to expect a better harvest which should sufficiently compensate the labor. In view hereof, while we agree with the appellants that the absence of provision concerning the matter in the Public Land Act (C.A. 141) makes applicable the general provisions of Article 1616 of the Philippine Civil Code, nevertheless we believe that the above-quoted pronouncement of the lower court is well-taken and should not be disturbed.

Wherefore, there being no reversible error in the decision appealed from, the same is hereby affirmed, with costs against the appellants.

So ORDERED.

Martinez and Piccio, JJ., concur.

Judgment affirmed.

